



PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL

**COMMISSIONED UNDER S 438U OF THE LOCAL
GOVERNMENT ACT 1993 (NSW)**

**PUBLIC HEARING
SYDNEY**

**WEDNESDAY, 29 OCTOBER 2025
AT 10.14 AM**

DAY 35

APPEARANCES

**Ms T McDonald SC, Senior Counsel Assisting
Ms B Anniwell, Counsel Assisting
Mr E McGinness, Counsel Assisting
Mr D Parish and Mr N Andrews, Counsel for Liverpool City Council
Ms C Hamilton-Jewell, Counsel for Mr P Ristevski
Ms K Richardson SC and Ms C Palmer, Counsel for Mayor N Mannoun
Mr D Tynan SC, Counsel for Mr J Breton
Mr D Bhutani, Counsel for Mr M Harte**

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<THE HEARING COMMENCED AT 10.14 AM

COMMISSIONER: Yes.

- 5 **MS McDONALD:** Unless anybody else had something to raise, we will continue with Mr Ristevski's evidence.

COMMISSIONER: Yes.

- 10 **<PETER RISTEVSKI, ON FORMER OATH**

COMMISSIONER: Thank you, Councillor. Just come forward. Take a seat. And you're still on your oath from Monday. Yes, Ms McDonald.

- 15 **MS McDONALD:** Mr Ristevski, I want to return to the topic of code of conduct complaints.

MR RISTEVSKI: Yes.

- 20 **MS McDONALD:** You gave evidence on Monday that you attended the induction program for new councillors around October 2024.

MR RISTEVSKI: Correct.

- 25 **MS McDONALD:** I showed you the agenda and there were a couple of hours in the afternoon with an outside speaker from the Office of Local Government speaking about code of conduct and Code of Meeting Practice?

MR RISTEVSKI: Yes.

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MS McDONALD: Your evidence about that training was your recollection - and this is at transcript 2629 - that there was a snippet in the induction training about the code of conduct:

- 35 "They may have just mentioned it, but in a generalised aspect without going into specifics."

- MR RISTEVSKI:** I was probably more referring to social media code of conducts, because I've had a whole bunch of them - I think 90 per cent of them around social media, and I think I've had probably 70, 80 code of conducts, and out of those 80 code of conducts probably 70 have been around social media. So I don't think he verbally mentioned anything about social media, but when you refer to the handbook there is one sentence on it, which is, in my opinion, not enough.
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- 45 **MS McDONALD:** All right. So the snippet that you were referring to was a snippet looking at code of conduct in the conduct of social media?

MR RISTEVSKI: Correct.

MS McDONALD: In - putting to one side social media, at the training were you taken to the code of conduct part 3, General Conduct?

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MR RISTEVSKI: We probably were, but we weren't taken through it like you took me through it in the testimony where - that's how it should have been done. It was very broad, very general, nothing specific. I really couldn't take much out of that session.

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MS McDONALD: But you were provided with a copy of the code of conduct?

MR RISTEVSKI: I believe so. I can't remember.

15 **MS McDONALD:** Now, you'd previously been given a copy of the code of conduct before you became a councillor?

MR RISTEVSKI: Are you talking about the 2016 term?

20 **MS McDONALD:** No, I'm talking about 2024. You were provided with a copy of the code of conduct?

MR RISTEVSKI: Once I became a councillor?

25 **MS McDONALD:** No, before you became a councillor.

MR RISTEVSKI: Before I became a councillor?

MS McDONALD: Do you remember that at all?

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MR RISTEVSKI: No.

MS McDONALD: Could we bring up, please, a letter, OLG.001.001.0083, and it can be live streamed. That's a letter from Liverpool City Council dated 23 April 2024, addressed to you at - excuse me - been sent to your business email?

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MR RISTEVSKI: Yes.

MS McDONALD: And if we continue down the page - maybe if we just first go under - reveal who has said "yours sincerely". Can you see it's a letter from Mr Ajaka as the chief executive officer?

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MR RISTEVSKI: Yes. Yes.

45 **MS McDONALD:** And if we move back to the body of the letter, acknowledges your emails:

"...regarding your complaint to the Office of Local Government about the conduct of Councillor Richard Ammoun".

MR RISTEVSKI: Correct.

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MS McDONALD: And advising that you wish to make a code of conduct complaint against Mayor Mannoun. Mr Ajaka says:

10 "I am looking into the matters ... [and then says] I attach a copy of council's code of conduct and code of conduct procedures for your information."

MR RISTEVSKI: Yes.

MS McDONALD: So you received that email?

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MR RISTEVSKI: Yes.

MS McDONALD: And attached to the email were copies of the code of conduct and code of conduct procedures?

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MR RISTEVSKI: Yes.

MS McDONALD: Now, you can see that that letter was dated 23 April. You recall that there was a council meeting after that?

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MR RISTEVSKI: I think so. Yes.

MS McDONALD: I'm sorry, there must have been a council meeting after that. But there was a council meeting in April -

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MR RISTEVSKI: Yes. Yes.

MS McDONALD: - where Mr Ajaka's employment was suspended?

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MR RISTEVSKI: Yes.

MS McDONALD: After that you sent an email to the acting CEO?

MR RISTEVSKI: Yes.

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MS McDONALD: Could we bring up, please, OLG.001.001.0088, please. And it can be live streamed. If we can first go to page 2. And pause there. You can see Lauren Myers on the 23rd has emailed you with correspondence from the CEO, Liverpool City Council?

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MR RISTEVSKI: Yes.

MS McDONALD:

"Please find attached correspondence from ... [Mr] Ajaka."

5 **MR RISTEVSKI:** Yes.

MS McDONALD: I would suggest that was the letter I just took you to.

MR RISTEVSKI: Yes.

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MS McDONALD: If we then go to the bottom of the first page - and this is an email from you on the 25th - and you have sent that to the Office of Local Government but also to Liverpool Council and your message starts with, "Hi Jason".

15 **MR RISTEVSKI:** Yes.

MS McDONALD: And that's a reference to Mr Breton -

MR RISTEVSKI: Correct.

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MS McDONALD: - the new acting CEO. And then you're making, in this email - is this a new complaint or are you repeating the complaint that you had made previously?

25 **MR RISTEVSKI:** New.

MS McDONALD: Can you -

MR RISTEVSKI: New.

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MS McDONALD: New. So where you talk about "Councillor Ammoun yelling out into the packed public gallery", that was a new complaint?

MR RISTEVSKI: Correct.

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MS McDONALD: And then on the second page, you've commenced that paragraph with:

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"Furthermore, in relation to Mayor Nader Mannoun, I want to lodge another code of conduct."

And you raised other conduct by the mayor.

MR RISTEVSKI: Correct.

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MS McDONALD: And in your correspondence in respect of both your allegations against Councillor Ammoun and the mayor, you're referring to them as code of conduct?

5 **MR RISTEVSKI:** Yes.

MS McDONALD: And in formulating this email, deciding that you're going to lodge these complaints, did you refer to the code of conduct that had been forwarded to you a day or two previously by Mr Ajaka?

10

MR RISTEVSKI: No.

MS McDONALD: Right. You didn't bother looking at that before you framed this?

15 **MR RISTEVSKI:** No, because it would have been - I would have received - I probably didn't read it because I get a thousand emails a day, so I probably didn't see that email until after this. It was only two days before - I think I received that email on 23 April.

20 **MS McDONALD:** Yes?

MR RISTEVSKI: And I sent this on 25 April. I don't think I had an opportunity to read that email.

25 **MS McDONALD:** And then if we go to the top of the first page, you can see Ms Myers, on behalf of the new CEO, acknowledges receipt of your complaint and also says:

30 "Please note, the acting CEO has been briefed on your complaints made to Mr Ajaka [earlier]".

At any time after receiving the code of conduct back in April, before you became a councillor, did you read it?

35 **MR RISTEVSKI:** No.

MS McDONALD: But it was in your possession?

40 **MR RISTEVSKI:** Yes.

MS McDONALD: Did you make any other complaints about any other councillors or members of staff before you became a councillor in September 2024?

45 **MR RISTEVSKI:** Don't think so.

MS McDONALD: Sorry, the election was September 2024.

MR RISTEVSKI: Yes. Yes.

MS McDONALD: You officially became a councillor in October.

5 **MR RISTEVSKI:** Correct.

MS McDONALD: You know what I'm talking about?

10 **MR RISTEVSKI:** Yes.

MS McDONALD: Before then did you make any other complaint against either a member of the governing body or a member of staff?

15 **MR RISTEVSKI:** No.

MS McDONALD: Now, on Monday I asked you some questions about the code of conduct complaints that had been made against you, and I took you to an email exchange - I think it was in February - February 2025, that - in which you raised an issue with the investigator appointed.

20 **MR RISTEVSKI:** Correct.

MS McDONALD: And you accepted that you, in fact, were notified at least about a code of conduct complaint about you in February 2025.

25 **MR RISTEVSKI:** Yes.

MS McDONALD: And also in March 2025 - you accepted that you would have read the code of conduct because you'd filed a code of conduct complaint by then?

30 **MR RISTEVSKI:** If I did file one, then yes. I just can't remember when it was in March, but if I did I would have read it.

35 **MS McDONALD:** Excuse me. I can bring up the transcript of your evidence in the closed session on Monday.

40 **MS HAMILTON-JEWELL:** Commissioner, can I raise a question. I think there's an existing non-publication order in respect of that evidence that - as we've indicated before, my client doesn't have any difficulty with that dealing - dealing with that in public, but I'm just keen to ensure that -

COMMISSIONER: Yes. Thank you.

45 **MS HAMILTON-JEWELL:** - there's no breach by my client in addressing questions.

COMMISSIONER: Yes, I'm grateful. I think where we've -

MS McDONALD: Sorry, I'm just looking at - trying to work out if I can ask questions without -

5 **COMMISSIONER:** Yes. I think so far it's fairly innocuous, but Ms Hamilton-Jewell is right, we do need to be cautious about inadvertent contravention of an order, even if it might be varied in the future.

10 **MS HAMILTON-JEWELL:** Well, to be clear, Commissioner, my concern is my client answering questions -

COMMISSIONER: Yes.

15 **MS HAMILTON-JEWELL:** - in response to evidence that's public, given - given the direction not to disclose publicly.

COMMISSIONER: If it wasn't clear, what I just said was intended to be entirely consistent with that.

20 **MS McDONALD:** Can I try and do it this way. If I ask for the code of conduct spreadsheet to be brought up on the screen here but not live streamed -

COMMISSIONER: Yes.

25 **MS McDONALD:** - refer the witness to a particular entry -

COMMISSIONER: Yes.

30 **MS McDONALD:** - and then put a proposition to him to see if he agrees with that.

COMMISSIONER: Yes.

MS McDONALD: If he doesn't, I'll have to take him to his concessions on Monday.

35 **COMMISSIONER:** Yes. All right.

MS McDONALD: Can you bring up only in the room LCC.030.001.0001. The entry that I want to take the witness to is in the first column, number 50. You can see that, Mr Ristevski, number 50 in the first column?

40 **MR RISTEVSKI:** Yes.

MS McDONALD: Moving along that row, can you see you're the complainant?

45 **MR RISTEVSKI:** Yes.

MS McDONALD: And if we move right along, in the final column it talks about interactions between you and another member of council?

MR RISTEVSKI: Yes.

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MS McDONALD: That appears, from the spreadsheet, to be the first code of conduct complaint that you had made?

MR RISTEVSKI: Yes.

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MS McDONALD: And in making that complaint, you had read the code of conduct?

MR RISTEVSKI: Yes.

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MS McDONALD: Right. Excuse me for a minute. My last question, that was the first code of conduct complaint that you made, was it the first code of conduct complaint you made since you commenced as a councillor in the council term starting October 2024?

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MR RISTEVSKI: I think so.

MS McDONALD: Now, I want to ask you some questions about the evidence you gave on Monday, and you indicated that there had been a change in your behaviour in respect of your use of social media from about June or July of this year?

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MR RISTEVSKI: Probably around July, I'd say.

MS McDONALD: All right. And your evidence - at one point I think you described it as a self-audit?

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MR RISTEVSKI: Correct.

MS McDONALD: You also gave evidence - and this is at transcript 2662 - that you had:

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"...more context and more specifics and an opportunity to sit down with the code of conduct reviewer and elaborate on a lot of these accusations that were made."

40

You say:

"This is a static document that you can't really - you can only interpret it in your own mind, while the process of the code of conducts was more informative on how the style needed to change."

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MR RISTEVSKI: Correct.

MS McDONALD: Now, when you spoke about "this is a static document", you were referring to the code of conduct? You said it - "this is a static document".

5 **MR RISTEVSKI:** Yes. Correct. It's very difficult to apply it into a real world situation sometimes.

MS McDONALD: All right. And then you say:

10 "...while the process of the code of conducts was more informative on how the style needed to change."

When you said "the style needed to change", what were you referring to?

15 **MR RISTEVSKI:** Messaging. The opportunity to sit down with the code of conduct reviewer -

MS McDONALD: No, no, no. I'll come to that in a minute. I'm just trying to work out -

20 **MR RISTEVSKI:** "Style", as in messaging - the tone.

MS McDONALD: Some content?

25 **MR RISTEVSKI:** The content -

MS McDONALD: I said "some content".

MR RISTEVSKI: Yes.

30 **MS McDONALD:** Now, in that answer you referred to sitting down with the code of conduct reviewer.

MR RISTEVSKI: Yes.

35 **MS McDONALD:** We've heard evidence about the procedure under the code of conduct procedure. And putting it in summary form, a complaint is made, there's kind of a first vetting, and then there's a - it can be a determination that it goes to a preliminary assessment.

40 **MR RISTEVSKI:** Yes.

45 **MS McDONALD:** And again, from the evidence in the inquiry it appears during the preliminary assessment, if you are the respondent to the complaint, the person being complained about, you're not informed of that. But if the preliminary assessment recommends proceeding to an investigation, that's when you're informed?

MR RISTEVSKI: Correct.

5 **MS McDONALD:** When you spoke about sitting down with the code of conduct reviewer, was that during the investigation stage of some of the code of conduct complaints made against you?

MR RISTEVSKI: Correct. So you receive a letter, then you - you have an opportunity to sit down with the code of conduct reviewer to elaborate on what's in that document.

10 **MS McDONALD:** Yes.

MR RISTEVSKI: And get clarification on how to prepare your defence.

15 **MS McDONALD:** And have you taken the opportunity to sit down with the code of conduct reviewer against every complaint made against you or only certain ones?

MR RISTEVSKI: Every single one.

20 **MS McDONALD:** So this is the first out of, in a sense, the stage of the investigation process. You receive the letter, your procedure is you sit down with this investigator or reviewer, you have a discussion with them about the complaint. If you need to seek clarification, you can. And then is the next stage, armed with that clarification and information, you put on your submissions?

25 **MR RISTEVSKI:** Correct.

MS McDONALD: Okay.

30 **COMMISSIONER:** Can we get some water for the councillor?

MR RISTEVSKI: I actually -

COMMISSIONER: You've got some?

35 **MR RISTEVSKI:** One of these.

COMMISSIONER: Yes, of course. Yes.

40 **MR RISTEVSKI:** I've got this tickle in my throat that I can't get rid of.

COMMISSIONER: Have you got some water there as well?

MR RISTEVSKI: Yes. Yes, I do.

45 **COMMISSIONER:** You do?

MR RISTEVSKI: Yes.

COMMISSIONER: All right.

MR RISTEVSKI: Okay.

5

MS McDONALD: Now, when having these discussions or sitting down with the code of conduct reviewer, what information or clarification have they provided to you which has led you to reassess how you engage on social media?

10 **MR PARISH:** Commissioner, the substance of this question - the answer (indistinct) via a closed session if they deal with the (indistinct) and the substance of what went on between the councillor and a reviewer in an open, as yet unresolved code of conduct, which may (indistinct) non-publication (indistinct).

15 **MS McDONALD:** Can I say, on my part, I don't know?

COMMISSIONER: I think that's - (crosstalk) - that's -

20 **MS McDONALD:** I anticipated that there might be a way of answering it -

COMMISSIONER: Yes.

MS McDONALD: - which didn't. That's why I didn't -

25 **COMMISSIONER:** Hence the reason for my perhaps overly (indistinct) pause, but I was just trying to think if there's a way that it could be dissected. The problem is, as you rightly say, Ms McDonald - this is not in any way, shape or form a criticism of the witness, but one doesn't know how the question might be answered.

30 **MS McDONALD:** And also to be fair to the witness, in answering it in a fulsome way he may wish to raise some specifics - as I said, I just don't know.

35 **COMMISSIONER:** Matters of context and the like. All right. Yes. And further to pick up on Ms Hamilton-Jewell's point earlier, there's a risk of inadvertent trespass into orders I've already made. All right. Pursuant to section 12B of the Royal Commissions Act, I direct that the next passage of evidence be taken in private session, the transcript of this passage of evidence not be published otherwise than in accordance with the usual order. Those who are in the hearing room can remain in the hearing room. And I'll just get - I'll just wait for the operator to tell us we're in
40 private.

<THE HEARING ADJOURNED TO PRIVATE SESSION AT 10.43 AM

<THE HEARING RESUMED AT 11.00 AM

COMMISSIONER: Yes.

5 **MS McDONALD:** Excuse me for a minute. Just excuse me for a minute. Now, you've also referred to the new guideline from the department, Free Speech in Local Government in New South Wales?

MR RISTEVSKI: Yes.

10

MS McDONALD: Which was released in June of this year.

MR RISTEVSKI: Correct.

15 **MS McDONALD:** You've read it?

MR RISTEVSKI: Correct.

MS McDONALD: Has it been referred to or mentioned at council?

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MR RISTEVSKI: At a council meeting?

MS McDONALD: Yes.

25 **MR RISTEVSKI:** No.

MS McDONALD: At anything like a governance meeting -

MR RISTEVSKI: No.

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MS McDONALD: - has it been mentioned?

MR RISTEVSKI: No.

35 **MS McDONALD:** And if it hasn't been mentioned, I take it no training or briefing on this guideline's been given?

MR RISTEVSKI: Correct.

40 **MS McDONALD:** Do you know if any - have there been any reference or mention to it being planned?

MR RISTEVSKI: No.

45 **MS McDONALD:** Now, if we can bring it up, please, LCC.012.001.0086. That's the first page. If we could go through to page 7 of the document. Down towards the bottom of the page, you can see the heading How does the Model Code of Conduct

Apply to Public Comment. It then identifies the key provisions of the model code of conduct. And down the bottom it refers to part 3. And if we can go across the page, specifically it refers then to the general obligations, and there - you can see the four dot points there. I want to ask you about the first dot point, which is:

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"Is likely to bring the council or other council officials into disrepute."

I'm using July as a cut-off time, given your evidence that you've now self-audited and had some self-education into the code of conduct. Before July, had you turned
10 your mind to what was meant by "likely to bring the council or other council officials into disrepute"?

MR RISTEVSKI: It is a very broad term that -

15 **MS McDONALD:** No, no, no. Just answer my question.

MR RISTEVSKI: Have I turned my mind to it? Yes.

MS McDONALD: Before July?

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MR RISTEVSKI: Yes.

MS McDONALD: All right. When you turned your mind to it, did you turn your
25 mind to what's actually meant by it?

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MR RISTEVSKI: Yes.

MS McDONALD: And in your - before July, what was your view of what was
30 meant by that?

30

MR RISTEVSKI: Very difficult to interpret what that means. I look at it as more of a - a way to stop criticism and debate.

MS McDONALD: Right. You're really not answering my question. I'm trying to get
35 from you - you've said that you'd turned your mind to what was meant - this idea of "I can't make a social media comment if it is likely to bring the council or other council officials into disrepute." What was in your mind when you were looking at that? What is meant by "bringing the council or other council officials into
40 disrepute"?

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MR RISTEVSKI: I don't know what that - what that meant at that time.

MS McDONALD: All right. After July, did you - have you now thought about what
45 that means?

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MR RISTEVSKI: I have.

MS McDONALD: And what, in your view, does it mean?

5 **MR RISTEVSKI:** All a very grey area in my mind. It's - I'll give you an example - and I think you gave you the example. The 2025 financial year, the previous council set a budget surplus of 2.6 million. It's now come back as a \$10.9 million deficit. I criticised that. Someone can hang their hat on and say, "You're bringing council into disrepute." How am I? I don't understand how - it's a very grey area and it needs to be more sharpened.

10 **MS McDONALD:** Okay. Before you became a councillor, had you turned your mind to - say, towards the beginning of 2024 - what was meant by "bringing the council into disrepute"?

15 **MR RISTEVSKI:** No.

MS McDONALD: If we can bring up OLG.001.001.0088 again, please. If we look at the bottom of the page to your two new complaints being made, can you see, in respect of the complaint that you've made against Councillor Ammoun, you say in the last sentence:

20 "This has put council in disrepute".

So you used the terminology -

25 **MR RISTEVSKI:** Yes.

MS McDONALD: - there in your complaint.

30 **MR RISTEVSKI:** It was probably -

MS McDONALD: You must have turned your mind then, because you utilised that term, as to what was in your mind?

35 **MR RISTEVSKI:** If I can explain? Yes, but I can -

MS McDONALD: And what was in your mind?

40 **MR RISTEVSKI:** Specifically from a member of the public. Ammoun yelled out that I was corrupt, which has nothing to do with council business. Obviously he's damaging the brand of the council. That had nothing to do with the budget, had nothing to do with the workings of council. He yelled out something that was very defamatory in the public gallery, and obviously it's - you're a representative of council and it's not a good look for council. That's what my thinking was in relation to that.

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MS McDONALD: So you say that the characteristics of that conduct was that it was made by a councillor at a councillor meeting to a member in the public gallery, a comment which you considered to be defamatory?

5 **MR RISTEVSKI:** Exactly. There's a -

MS McDONALD: And that your view is, with those characteristics, that would come within the code of conduct chapter 3, General Conduct, of bringing the council into disrepute?

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MR RISTEVSKI: There's a direct nexus in my mind.

COMMISSIONER: In an earlier answer you referred - did I hear you correctly - to the brand of the council?

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MR RISTEVSKI: Yes.

COMMISSIONER: Is that what you said?

20 **MR RISTEVSKI:** Yes.

COMMISSIONER: What - just so I'm clear on -

MR RISTEVSKI: Yes.

25

COMMISSIONER: - what you mean by that, what did you have in mind?

MR RISTEVSKI: Well, I thought he's representing council, I'm a ratepayer, and it's - is that any way to talk to a ratepayer?

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COMMISSIONER: Thank you.

MS McDONALD: Now, could we go back, I'm sorry, to the guideline on free speech. And I think we're still on page 8. And, sorry, I don't know if I continued with that - after July, do you now have a different view or another view of what is meant by bringing the council into disrepute?

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MR RISTEVSKI: Still don't understand it.

40 **MS McDONALD:** Is -

MR RISTEVSKI: In the context of -

MS McDONALD: Sorry.

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MR RISTEVSKI: In the context of being a councillor. I can understand it with what Ammoun did, but in context of the criticism - criticising the budget, criticising the

habits of spending - I've seen code of conducts hang their hat on that, but I don't understand how - it's genuine criticism but a lot of councillors use it to shut down debate, and that's where the grey area comes into it.

- 5 **MS McDONALD:** So your - can I just try and summarise what I think you're saying - is that councillors should be able to criticise council decisions?

MR RISTEVSKI: Correct.

- 10 **MS McDONALD:** I think the restrictions which this guideline talk about is that if it's been lawfully made by a majority you can't, in a sense, allege that it was illegally made or anything along those lines.

- 15 **MR RISTEVSKI:** I mean, I'm - just pure criticism, not a - not about illegalities. But I am, in my opinion, the most qualified in the council to - to assess something financially, and if I disagree with it I should be allowed to make criticism of that decision.

- 20 **MS McDONALD:** Excuse me for a minute. If we can jump to page 7 again of this guideline. Up the top it refers to some restrictions which are placed on councillors under section 232. Can you see that?

MR RISTEVSKI: Top part?

- 25 **MS McDONALD:** Yes. Can you see:

"Individual councillors also have an important role under section 232 of the Act".

- 30 **MR RISTEVSKI:** Yes. Yes.

MS McDONALD: And then if we go across to the next column, that section places a responsibility:

- 35 "...to uphold and represent accurately the policies and decisions of the governing body."

MR RISTEVSKI: Correct.

- 40 **MS McDONALD:** And then further down it says:

"...they must accept the decisions are lawfully made if passed by a majority and must not misrepresent them."

- 45 You said -

MR RISTEVSKI: I've never -

MS McDONALD: I'm just taking it step by step.

MR RISTEVSKI: Yes, I see that.

5 **MS McDONALD:** So the requirements under section 232 would provide some restrictions or limitations on what you could express if you were going to criticise a decision of council?

MR RISTEVSKI: I agree, but I never criticised the fact that it's illegal.

10

MS McDONALD: No, I'm not asking you that. I'm asking you, as set out here -

MR RISTEVSKI: Yes.

15 **MS McDONALD:** - you've - sorry, I'll withdraw that question. You've said that you're concerned that this "not to bring the council into disrepute" might impinge on debate and discussion?

MR RISTEVSKI: Yes.

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MS McDONALD: All right. In a sense, that sentiment is also expressed in this document?

MR RISTEVSKI: Yes.

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MS McDONALD: But what this document does is it also says "but there are some limitations"?

MR RISTEVSKI: Yes.

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MS McDONALD: And I'm exploring with you whether you accept those limitations as well. Right?

MR RISTEVSKI: Yes.

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MS McDONALD: The first limitation is the one expressed there that arises under section 232 of the Act.

MR RISTEVSKI: Yes.

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MS McDONALD: And that you've got to accept decisions are lawfully made by a majority and you can't misrepresent them.

MR RISTEVSKI: I agree with that, yes.

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MS McDONALD: Okay. In addition - excuse me for a minute. There are some other restrictions - for example, not revealing confidential information -

MR RISTEVSKI: Correct.

5 **MS McDONALD:** - which I won't go to. But on page 10 - I want to look at the second column, which commences, "It is inevitable". Do you see that?

MR RISTEVSKI: Yes. Yes.

10 **MS McDONALD:**

"It is inevitable that councils, councillors, council staff and members of the community will disagree with, dispute or may even be offended by comments made by councillors when engaging with the community."

15 But then it says:

"Unless the comment involves a clear breach of the provisions of the code of conduct referred to above ([for example] because it is personally disparaging, abusive or intimidating), the code of conduct is not the appropriate mechanism for addressing that comment."

MR RISTEVSKI: Yes.

25 **MS McDONALD:** So implicit in that comment is that, if you have a comment which is personally disparaging, abusive or intimidating, that comes - should not - sorry, potentially is a breach of the code of conduct?

MR RISTEVSKI: Correct.

30 **MS McDONALD:** And those restrictions that are stated there, that it shouldn't be personally disparaging, abusive or intimidating, do you accept those restrictions?

MR RISTEVSKI: Yes.

35 **MS McDONALD:** And do you now apply them to when - your social media postings?

MR RISTEVSKI: Yes.

40 **MS McDONALD:** And your evidence before that the Facebook stories that I took you to the other day - if your Macedonian team suggested to you that they want - that this should be posted, you would now say, "No, I'm not authorising that. I'm not allowing that"?

45 **MR RISTEVSKI:** Correct.

MS McDONALD: And that's - part of your reason in doing that is that it would be - come within personally disparaging, abusive or intimidating?

MR RISTEVSKI: Yes.

5

MS McDONALD: All right. But is your point ultimately, with the term "you should not" - sorry, I'll just get the terminology. "You should not conduct yourselves in a way where it is likely to bring the council or other council officials into disrepute," you agree that within the "I want to engage in debate about a council issue" there are restrictions to it?

10

MR RISTEVSKI: Yes. I - by not being disparaging, abusive, intimidating.

MS McDONALD: And also not misrepresenting -

15

MR RISTEVSKI: Correct.

MS McDONALD: - a motion or a decision, et cetera?

20

MR RISTEVSKI: Correct.

MS McDONALD: Not criticising it when it was lawfully made. But is your view -

25

COMMISSIONER: Sorry. Not suggesting it was unlawfully made. Is that what -

MS McDONALD: Unlawfully made.

MR RISTEVSKI: Yes.

30

COMMISSIONER: - you mean by that?

MS McDONALD: Yes, when it was lawfully made.

COMMISSIONER: Yes, I thought so. I just wanted to be clear.

35

MR RISTEVSKI: Yes.

MS McDONALD: Sorry, I was just abbreviating it.

40

COMMISSIONER: No, no. I just wanted to be clear so the witness is clear.

MS McDONALD: But still within that kind of umbrella of restrictions, do you still find the term "bring the council in" - "likely to bring the council or council officials into disrepute" grey?

45

MR RISTEVSKI: Not when you mention it that way. I think there should be a definition of what that means and further elaboration of it, like you've just clarified.

MS McDONALD: Yes. So that's something that you would - you would be of the view would assist?

5 **MR RISTEVSKI:** Correct.

MS McDONALD: When you - I think I can ask this in open session. When you've -

10 **COMMISSIONER:** Just before you answer, Councillor, just pause -

MS McDONALD: Yes.

15 **COMMISSIONER:** - and we'll see if we get into dangerous territory. That is, listen to the question, but before you answer just give yourself five seconds and we'll see if we need to do something else.

20 **MS McDONALD:** When you've had the sessions with the code of conduct investigators or reviewers, has the term "bring the council into disrepute" been discussed with them?

MR RISTEVSKI: No.

COMMISSIONER: Wasn't five seconds, but no one objected.

25 **MS McDONALD:** I think it's okay.

MR RISTEVSKI: Can I just take a five-minute break?

30 **COMMISSIONER:** Yes. Of course, Councillor. Should we - given that we're fast approaching 11.30, should we just take a slightly earlier morning tea?

MS McDONALD: Yes.

35 **COMMISSIONER:** Councillor, happy to give you a break. We'll just take the morning tea adjournment now. So it'll be 20 minutes rather than five.

MR RISTEVSKI: Really? Okay.

40 **COMMISSIONER:** And we'll come back at 20 to 12.

MR RISTEVSKI: Okay.

COMMISSIONER: I'll adjourn till 20 to 12.

45 **<THE HEARING ADJOURNED AT 11.20 AM**

<THE HEARING RESUMED AT 11.52 AM

COMMISSIONER: Yes. Ready for the councillor?

MS McDONALD: Yes. Thank you.

5

COMMISSIONER: Thank you, Councillor. Yes, Ms McDonald.

MS McDONALD: Mr Ristevski, I wanted to move to a different topic.

10 **MR RISTEVSKI:** Yes.

MS McDONALD: And the topic is council meetings.

MR RISTEVSKI: Yes.

15

MS McDONALD: On Monday, when we were dealing with the induction and training that you had received, code of conduct was raised but also the Code of Meeting Practice was raised with you?

20 **MR RISTEVSKI:** Correct.

MS McDONALD: And my recollection of your evidence was that you did mention that you didn't get exposure to, in a sense, on-hands experience with how meetings are conducted.

25

MR RISTEVSKI: Correct.

MS McDONALD: And my recollection - I'm sorry - is that you raised things like, you know, how much do you draft a notice of motion, if you want to move a dissenting notice how do you do that - kind of the nuts and bolts.

30

MR RISTEVSKI: Exactly.

MS McDONALD: All right. I wanted to explore a couple of motions that you have brought up. And in particular, in respect of the first one, any advice or information that you had received about it.

35

MR RISTEVSKI: Sure.

MS McDONALD: Now, just to put it in context, I'll bring up the 20 November '24 minutes of that council meeting. INQ.001.001.1121. This can all be live streamed. So that's the first page. And if we can move through to page 14. Now, this was a motion of urgency that seems to have been agitated by Councillor Ammoun.

40

45 **MR RISTEVSKI:** Correct.

MS McDONALD: And if we move down - we've got the background about the resolution, and if we keep on moving - if we can stop there:

5 "Liverpool City Council acknowledges the severe humanitarian crisis currently unfolding in Lebanon ... recognises the shared cultural and community ties between Liverpool and Lebanon".

And if we keep on going - then 3:

10 "Approves an immediate donation of \$20,000 to a reputable humanitarian organisation such as AusRelief."

MR RISTEVSKI: Yes.

15 **MS McDONALD:** And then 4 is directing the acting CEO to expedite the transfer of those funds.

MR RISTEVSKI: Yes.

20 **MS McDONALD:** And you can see then it was moved by Councillor Ammoun, seconded by Councillor Karnib. And if we keep on going, basically that motion was accepted by the council?

MR RISTEVSKI: Yes.

25 **MS McDONALD:** And keep on going:

"On being put to the meeting the motion was declared carried. Councillors voted unanimously for this motion."

30 **MR RISTEVSKI:** Yes.

MS McDONALD: And in November you were one of the councillors who voted?

35 **MR RISTEVSKI:** Correct.

MS McDONALD: Now, if we can then jump to the 23 April meeting. In the agenda there is a notice of motion which you drafted. Can we bring up, please, INQ.009.001.0015, please. Yes. First page, Council Agenda for the 23 April
40 meeting.

MR RISTEVSKI: Yes.

MS McDONALD: Can you excuse me. Can we go through to page 344. Now, this is
45 notice of motion 9. You're the author?

MR RISTEVSKI: Correct.

MS McDONALD: And we can see, if we keep on moving down - stop there - you refer to the recent decision for the \$20,000 donation. And then you talk about:

5 "It sparked considerable discontent among ratepayers".

MR RISTEVSKI: Correct.

10 **MS McDONALD:** And I assume that's because you were receiving messages, either on your social media or in person, from ratepayers?

MR RISTEVSKI: Correct.

15 **MS McDONALD:** And then if we - you then say the - keep on moving through. You talk about recent feedback that:

"...from ratepayers indicates a strong preference for funds to be utilised within the Liverpool LGA."

20 Then you talk about financial accountability, local needs, et cetera.

MR RISTEVSKI: Correct.

25 **MS McDONALD:**

"Committing to local donations will enhance transparency."

And then if we keep on going, you then set out your notice of motion.

30 **MR RISTEVSKI:** Correct.

MS McDONALD: And the first two parts of the resolution, in a sense, are forward-looking. That is, the:

35 "Council prohibits any future donations from council funds to overseas entities or causes."

MR RISTEVSKI: Yes.

40 **MS McDONALD:** And then 2:

"Council ensure that all donations are directed exclusively within the [LGA]".

45 **MR RISTEVSKI:** Correct.

MS McDONALD: Right. Now, the third one is that:

"The \$20,000 be returned from the councillors budget."

MR RISTEVSKI: Correct.

5 **MS McDONALD:** Now, at that point is your thinking - the original motion was in November. Everybody voted in favour of it. The \$20,000 has now gone to AusRelief or whichever entity it went to?

MR RISTEVSKI: Correct.

10

MS McDONALD: So there's no point, in a sense, in pursuing some kind of notice of rescission?

MR RISTEVSKI: Correct.

15

MS McDONALD: So the third paragraph is - you're looking at, in some way, getting the \$20,000 back?

MR RISTEVSKI: Correct.

20

MS McDONALD: Now, as part of the agenda - I want to bring you to the next section, which is the acting chief executive officer's comments. And you can see there, there are kind of - the first one is the reference back in the motion in November 2024, unanimously endorsed. Then he's got an issue about, "If you
25 approve 2, do you need 1?"

MR RISTEVSKI: Correct.

MS McDONALD: Right. But then he says:

30

"In regard to recommendation 3, there is no 'councillors budget' from which to seek a return of funds. The donation has been made and is not recoverable."

MR RISTEVSKI: Correct.

35

MS McDONALD: Now, when do you get to see the chief - acting, sorry, chief executive officer's comments?

MR RISTEVSKI: When the public sees them when the agenda comes out a week
40 before.

MS McDONALD: All right. In respect of that particular notice of motion that you were pressing, did you have any discussion with the acting chief executive officer about it before the meeting?

45

MR RISTEVSKI: No.

COMMISSIONER: Any other staff?

MR RISTEVSKI: No.

5 **MS McDONALD:** You didn't initiate any discussion?

MR RISTEVSKI: I provide my motions well in advance so there's ample opportunity for them to provide feedback. They have been doing them on occasions now, which is good. They'd ring me up and said, "Can we reword it this way?" So it
10 is happening now, but back in April it didn't happen.

MS McDONALD: All right. So my next question was going to be, did the acting chief executive officer or anybody within the staff contact you about any comment about your proposed notice of motion.
15

MR RISTEVSKI: No.

MS McDONALD: All right. So just confirming your evidence, the first time you see these comments is when the agenda book comes out?
20

MR RISTEVSKI: Correct.

MS McDONALD: In the lead-up to the actual meeting, you don't initiate a conversation about the acting chief executive officer's comments with him?
25

MR RISTEVSKI: I hadn't seen them until it came out, and obviously it's in the public domain then.

MS McDONALD: But - and as we'll see, you actually amended your notice of motion?
30

MR RISTEVSKI: Correct. I had to, because of the CEO's comments.

MS McDONALD: Okay.
35

COMMISSIONER: But after you saw the agenda - it's about roughly a week before the meeting? Is that - that's the usual time you kept the agenda book?

MR RISTEVSKI: Yes. Yes.
40

COMMISSIONER: Might be plus or minus a day?

MR RISTEVSKI: Correct. Yes.

45 **COMMISSIONER:** I think what counsel assisting was asking you was whether in that seven-day period - did you reach out to the chief executive officer to discuss his comment as appeared in the agenda book?

MR RISTEVSKI: No, and he didn't reach out to me.

5 **MS McDONALD:** You didn't reach out to him - sorry. You didn't contact him, he didn't contact you?

MR RISTEVSKI: Correct.

10 **MS McDONALD:** And expanding that, you didn't contact any other member of staff?

MR RISTEVSKI: Correct.

15 **MS McDONALD:** And no member of staff contacted you?

MR RISTEVSKI: Exactly.

20 **MS McDONALD:** Right. If we can move to the minutes of that meeting - let me just double-check. INQ.009.001.0017. And this can all be live streamed. First page are minutes of the meeting of 23 April?

MR RISTEVSKI: Yes.

25 **MS McDONALD:** Can we go through to page 60, please. Again, it's notice of motion number 9.

MR RISTEVSKI: Yes.

30 **MS McDONALD:** And what is in the minutes there follows what was in your accompanying paper with your background that you're giving?

MR RISTEVSKI: Yes.

35 **MS McDONALD:** And then if we move down, we've got the notice of motion. Now, if we can just pause there. The video of the meeting has you saying something along the lines of, "I've amended the motion and I've given it to the staff members and can they bring it up"?

40 **MR RISTEVSKI:** Correct.

MS McDONALD: So the motion that you're pressing at the meeting isn't in the exact terms as the one in the agenda booklet?

45 **MR RISTEVSKI:** Correct.

MS McDONALD: You've changed it a bit?

MR RISTEVSKI: Yes.

5 **MS McDONALD:** But that seems to be part of an accepted procedure at the council meetings, that there can be some tweaking or amendments to notices of motion in that way?

10 **MR RISTEVSKI:** This one it had to be, because there was no money in the councillor budget. That would have made my point 2 - sorry, 3 redundant. So I had to seek alternative means.

MS McDONALD: All right. And -

COMMISSIONER: But that happens from time to time?

15 **MR RISTEVSKI:** Yes. Correct.

COMMISSIONER: There'd be tweaking of the text of the motion from what's in the agenda book?

20 **MR RISTEVSKI:** Exactly. Yes.

COMMISSIONER: Or something might have arisen or a councillor might have a point that you want to take on board.

25 **MR RISTEVSKI:** Yes.

COMMISSIONER: That sort of thing happens?

30 **MR RISTEVSKI:** Yes. But it's within the same tone and subject matter.

MS McDONALD: All right. And your change is to paragraph 3, and you've got:

35 "The \$20,000 be returned from the following councillors for missing council meetings."

And if we go to the next page, you identify the mayor and four other councillors?

MR RISTEVSKI: Correct.

40 **MS McDONALD:** And in respect of the mayor, you nominate an amount of money - excuse me - which you say represents half meeting of February and the full meeting of March?

45 **MR RISTEVSKI:** Correct.

MS McDONALD: And then the same - sorry. Only the February half meeting with the rest of the councillors?

MR RISTEVSKI: Correct.

MS McDONALD: And then you've got - I think this is - 4 might be new:

5

"Prepare a Councillor Workshop to inform the development of a policy responding to donations related to disasters."

MR RISTEVSKI: Correct.

10

MS McDONALD: Now, you made that amendment and moved for that notice of motion at the meeting.

MR RISTEVSKI: Correct.

15

MS McDONALD: The procedure was that the mayor and the councillors named in paragraph 3 then declared a pecuniary and significant interest?

MR RISTEVSKI: Correct.

20

MS McDONALD: And then ultimately, if we follow the minutes along - we can see all that. Keep on going. We've then got Councillor Harle in the chair?

MR RISTEVSKI: Yes.

25

MS McDONALD: Then we've got the various other - the mayor and the other councillors returning at one point. And if we keep on going. It records four points of order. But ultimately, it records:

30 "The motion lapsed as there was no seconder."

MR RISTEVSKI: Correct.

35 **MS McDONALD:** Now, the procedure with the motion that you were pursuing - from your evidence, you drafted it, it was put in the agenda, but then you had the comment from the chief executive officer?

MR RISTEVSKI: Correct.

40 **MS McDONALD:** You took that into account and that led you to amend paragraph 3?

MR RISTEVSKI: Correct.

45 **MS McDONALD:** And again, with paragraph 3, can you recall at the meeting there were issues about that legality - of whether you could resolve for the mayor and those councillors to pay back those funds?

MR RISTEVSKI: Look, yes, I guess if it's put in the - it's part - if it's passed by council, then more than likely it will be a moral decision rather than a legal decision for them to return the money.

5

MS McDONALD: But my question was at the meeting there were issues raised about the legality -

MR RISTEVSKI: Correct.

10

MS McDONALD: - of your amended motion?

MR RISTEVSKI: Concerning point 3.

15

MS McDONALD: Yes.

MR RISTEVSKI: Yes.

MS McDONALD: And ultimately, as recorded there, nobody seconded it?

20

MR RISTEVSKI: Correct.

MS McDONALD: If we can keep on going, what then happened is that a new motion was put and ultimately carried unanimously that the council:

25

"Informs the community of all similar overseas donations made previously and the circumstances [that] they were made; and direct the CEO for a workshop to consider a Donations Policy."

30

MR RISTEVSKI: Yes.

MS McDONALD: And that was carried unanimously. And has that been put into effect?

35

MR RISTEVSKI: Yes.

MS McDONALD: You've now got a -

MR RISTEVSKI: I think it's open to public submission, so it's got to come back to council.

40

MS McDONALD: Okay. So a donations policy has been drafted and it's on a public exhibition, something like that?

45

MR RISTEVSKI: Yes.

MS McDONALD: All right. At any - it seems from the original motion and the amended motion you had in your mind something you wanted to achieve, but it would appear that it either wasn't going to be effective or couldn't be put into operation or there was a legal issue about it?

5

MR RISTEVSKI: Correct.

MS McDONALD: In the lead-up to the meeting on 23 April - and I think you've probably already given this evidence - you never raised it with the CEO or the staff along the lines of, "This is what I want to achieve. Can I do it"?

10

MR RISTEVSKI: No, but they had my amended motion, I think, the day of the meeting, so they were aware of what I was going to put.

15 **MS McDONALD:** When did you submit it?

MR RISTEVSKI: I normally submit it in the morning of the day of the meeting.

MS McDONALD: And after receiving that, you didn't receive any further information or feedback from -

20

MR RISTEVSKI: No.

MS McDONALD: - the acting CEO or any member of staff about, "Look, there's" - I'm putting it broadly, "there's problems with this"?

25

MR RISTEVSKI: Correct.

MS McDONALD: You said matters have changed. But if we look at up until this April meeting, when you were putting any motions that there may be comment by the acting CEO in the agenda book about are they practical, are they legal, can they be effected, et cetera, were you engaging with the acting - either the - no, it would have been the acting CEO - and any member of staff about the contents of your notices of motion?

30
35

MR RISTEVSKI: Are you talking about recently, now that we've -

MS McDONALD: No, I'm going up to April.

40 **MR RISTEVSKI:** No. I don't believe so.

MS McDONALD: Now, you've spoke about a change. When has the change occurred?

45 **MR RISTEVSKI:** Probably in the last three months.

MS McDONALD: And what's occurred?

5 **MR RISTEVSKI:** If there's issues with the wording of it they'd call me and then they'd make some changes. They'd email it back to me, "Are you happy with those changes?" If I say yes, it goes into the agenda. There has been some where - for example, the recent one involving the suspension of the current CEO and the legal fees that were incurred. I moved a question - actually, I moved a notice of motion - or a question about notice, something like that, same principles. Mr Portelli emailed me back, saying, "No, we can't publish this. It's illegal." And I replied back to him, saying, "I disagree and I'd like it to be reviewed." And I'm still waiting for that outcome. So there's a bit of banter between questions with notice and notice of motions now.

MS McDONALD: All right. That's on a particular topic?

15 **MR RISTEVSKI:** Yes. Yes.

MS McDONALD: But where - your comment that it - "over the last three months" - you submit, for example, a notice of motion or a question on notice to be included in the agenda.

20 **MR RISTEVSKI:** Yes.

MS McDONALD: And before the agenda is published you may be contacted by a member of staff -

25 **MR RISTEVSKI:** Correct.

MS McDONALD: - raising with you certain wording or suggesting a change?

30 **MR RISTEVSKI:** Correct. Correct.

MS McDONALD: And who's the member of staff?

35 **MR RISTEVSKI:** It varies each time. It could be Tina Bono, it could be someone within her team. On this occasion that I've just mentioned it was the director Portelli. It's not the same person all the time.

40 **MS McDONALD:** There has been evidence before the inquiry about how meetings are being conducted, whether they're being conducted efficiently, et cetera. And one of - there was some evidence along the lines of a concern that there are a number of notices of motion that you propose which then lapse because there's no seconder.

MR RISTEVSKI: Yes.

45 **MS McDONALD:** We've had a look through the various agendas and minutes. There seems to have been, I think, about five or six in those - which come within that category.

MR RISTEVSKI: Probably right.

MS McDONALD: One example's that one?

5

MR RISTEVSKI: Correct.

MS McDONALD: We have, in May - there was at an extraordinary meeting a motion, where I think the council were endorsing the strategic plans, et cetera, including the long-term financial plan?

10

MR RISTEVSKI: I can't remember that one.

MS McDONALD: All right. You moved for an amendment where there would be a saving from money allocated in the budget for events?

15

MR RISTEVSKI: Yes. Correct. Yes.

MS McDONALD: And that wasn't - there was no seconder for that?

20

MR RISTEVSKI: Correct.

MS McDONALD: There was another one which I didn't quite understand, a revised schedule for governance committee members and councillor briefing sessions. That was in June of this year and that lapsed?

25

MR RISTEVSKI: I can't remember that one, if that was mine.

MS McDONALD: Then there was one where - the motion proposed writing to the NSW Government and Local Government Association requiring DAs to include a provision for a flagpole?

30

MR RISTEVSKI: Yes. Correct.

MS McDONALD: And that lapsed -

35

MR RISTEVSKI: Correct.

MS McDONALD: - with no seconder. You also, in February, raised a notice of motion about the media - the media department and personal use of the media department?

40

MR RISTEVSKI: Can you clarify a little bit more?

MS McDONALD:

45

"Formally adopts a policy that prohibits use of media department for personal use by mayor or council members."

5 **MR RISTEVSKI:** Sounds about right.

MS McDONALD: And that lapsed?

MR RISTEVSKI: Would be right, I guess.

10 **MS McDONALD:** And we've had the donation one. With the motions, is it usual to try and identify a seconder beforehand?

MR RISTEVSKI: It's not a requirement.

15 **MS McDONALD:** Okay. But as a practice, do you try and do that?

MR RISTEVSKI: Yes.

20 **MS McDONALD:** And I think it's about six examples I gave you where there was a motion and it lapsed.

MR RISTEVSKI: Yes.

25 **MS McDONALD:** Was it five, was it?

COMMISSIONER: In any event, of the occasions where you have proposed a motion and it has lapsed for want of a seconder, do you recall whether you reached out to any of your colleagues to see -

30 **MR RISTEVSKI:** Yes, I do.

COMMISSIONER: - if you had support?

35 **MR RISTEVSKI:** Yes, I did reach out.

MS McDONALD: This might be difficult because I think in the context of that motion - it did take a bit of time because people left the chamber and then came back, et cetera.

40 **MR RISTEVSKI:** Yes. Yes.

MS McDONALD: But usually with a motion where you don't have a seconder, I assume you speak to it?

45 **MR RISTEVSKI:** No. Unless you've got a seconder you can't speak to it.

MS McDONALD: All right. So it's, in a sense, they raise, "We're now dealing with notice of motion X," and if there's no seconder it just lapses?

MR RISTEVSKI: Correct.

5

MS McDONALD: And putting to one side that example, does that usually take a short period of time or -

MR RISTEVSKI: Three seconds.

10

MS McDONALD: Okay.

MR RISTEVSKI: If you get that. Sometimes the mayor gives you two seconds.

15

MS McDONALD: And if I say to you that there was - that there is evidence before the inquiry that the lapsing of notices of motion because there isn't a seconder in some way demonstrated or was reflective of the council meetings being dysfunctional, what would your reaction to that be?

20

MR RISTEVSKI: Ridiculous.

MS McDONALD: You don't agree with it?

MR RISTEVSKI: I don't agree.

25

MS McDONALD: Okay. Just before I move from the topic of the council meetings, is - since you have been back as a councillor since October now for 12 months, is there any observation you would make about how the meetings are being conducted and functioning?

30

MR RISTEVSKI: Terribly.

MS McDONALD: Right. Can I just pause there. When you say "terribly", is that your assessment for all of the meetings since October or has this arisen at a certain time?

35

MR RISTEVSKI: All.

MS McDONALD: And when you say "terrible", what particular - in particular are you raising?

40

MR RISTEVSKI: The chairing by the mayor.

MS McDONALD: And is there something in particular that you are critical of in the way that the mayor chairs the meetings?

45

5 **MR RISTEVSKI:** Yes. I ask a lot of my council colleagues in various other councils, "How long do your meetings take?" Some say an hour, some say three. Ours will go for five hours because the mayor sometimes would sit there - and we have to wait - I've seen it on a number of occasions, for 20 minutes while he reads the Code of Meeting Practice, and we're all sitting there looking at him, rolling our thumbs. That, to me, is inappropriate, where we're wasting time for the mayor to read something he should already know. Other times, where -

10 **MS McDONALD:** Can I just pause there.

MR RISTEVSKI: Yes.

15 **MS McDONALD:** So your complaint is that he will actually read out paragraphs or contents of the Code of Meeting Practice?

MR RISTEVSKI: No, he won't. He'll read there silently while we're looking at him read.

20 **MS McDONALD:** Sorry, I didn't understand you.

MR RISTEVSKI: Yes.

25 **MS McDONALD:** Okay. So an issue arises, he then consults the Code of Meeting Practice, and you sit and wait while he consults and - okay. Is there anything else?

30 **MR RISTEVSKI:** Yes. It's too one-sided. You can see he's got Councillor Ammoun, whose only role is to call out "I object" - or whatever they're called - a breach of the Code of Meeting Practice if a councillor is speaking, and then the mayor would - would normally, 99 per cent of the time, rule in favour of the Liberals. But when anyone else raises an objection, he rules against that objection. So it's very one-sided.

35 **MS McDONALD:** Okay. So can I just pause. Your observation is that when different councillors make objections during the meeting - and that's an objection to the procedure that -

MR RISTEVSKI: Might be something that they've said.

40 **COMMISSIONER:** Are we talking about points of order?

MR RISTEVSKI: Points of order, that's it. Yes. Sorry.

COMMISSIONER: That's all right.

45 **MS McDONALD:** Your impression that when a point of order is raised, the chair seems to favour points of order raised by councillors affiliated with the Liberal Party?

MR RISTEVSKI: Correct.

MS McDONALD: Okay. And anything else?

5

MR RISTEVSKI: If there's - we want to consult the legal counsel that's present at council chambers, a lot of the times he won't allow us to do that, and then we're entering into a debate on why we can, why we can't. When we have a legal counsel that's present on the evening, allow them to have a say on whether this can be done or that can't be done rather than - he knows - yes, the mayor probably knows the answer will go against him, so he prevents us from asking that question. It's very one-sided.

10

MS McDONALD: So can I just pause there. Some of the meetings, there - it is evident that - it's the general counsel?

15

MR RISTEVSKI: Correct.

MS McDONALD: Counsel of council is there. At times I have seen there's a question through the chair, and it usually goes to the CEO and then goes to the general counsel, about legality of a particular matter.

20

MR RISTEVSKI: Correct.

MS McDONALD: Your complaint is that at times you have sought the opinion of the general counsel of council and that hasn't been accommodated in that way at a meeting?

25

MR RISTEVSKI: Correct.

30

MS McDONALD: Can I just ask about the length. You made the comment about your observation of the mayor at times reading to himself the Code of Meeting Practice. Are there any other reasons for the length of the meetings?

MR RISTEVSKI: Yes, he will - he will debate an issue that's so minor because he doesn't like the outcome of it. But when we're talking about tens of millions of dollars about an agenda item, people are so tired at the end that they let it slip through - they don't want to debate it, and everyone - and if - if I, for example, want to debate it, you can see everyone's getting upset with me because it's late in the night and they want to go home, because we spent an hour debating a minor issue.

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40

MS McDONALD: So that really comes down to how the agenda for the meeting is organised.

MR RISTEVSKI: Exactly.

45

MS McDONALD: And your view is if it is a notice of motion or an issue of importance, depending on what it is or the amount of money involved, which may generate a lot of debate, that should be given a priority and heard earlier in the meeting?

5

MR RISTEVSKI: The way they're organised, the agenda is - is very static. This goes first, that goes first. A re-organisation should be done on priority regardless of - we don't - why do we have to deal with everything in the planning department - there's 10 items there - and then - then to go into the communications department, 10 items there. Why can't we just deal with individual items of order of importance rather than, "Let's just deal with all these 10 from the one department." It makes no sense. We are dealing sometimes with a lot of money, and like I said, by 10 - 10.45 pm it's not getting the attention it deserves.

15 **MS McDONALD:** Do council meetings have to end by a certain time?

MR RISTEVSKI: 11 pm.

20 **MS McDONALD:** And if you haven't reached the end of the agenda, any items you haven't discussed or debated, do they just go over until the next meeting?

MR RISTEVSKI: Correct. A lot of the times the mayor will rush things through to make sure that the meeting finishes. And like I said, they really should be debated.

25 **MS McDONALD:** Excuse me for a minute. Sorry. Just excuse me for a minute. Mr Ristevski, I wanted to move to another topic, and that's councillor and staff interaction policy.

MR RISTEVSKI: Sure.

30

MS McDONALD: You know a new policy was adopted in July of this year?

MR RISTEVSKI: Correct.

35 **MS McDONALD:** I want to ask you about two matters coming under the umbrella of the councillor and staff interaction policy. This new policy, have you had any training or briefing sessions in it?

40 **MR RISTEVSKI:** I don't think so. It's only been recently adopted, so we haven't had the opportunity to.

MS McDONALD: Could we just bring it up, please. LCC.030.002.0001. And it can be live streamed. Now, before taking you to a particular part, since you have been elected again as a councillor commencing October of last year, you have the ability
45 as a councillor to seek information?

MR RISTEVSKI: Correct.

MS McDONALD: The way you seek information can be by submitting a request through the Councillor Support email?

5 **MR RISTEVSKI:** Yes.

MS McDONALD: And is that a service that you use quite often?

10 **MR RISTEVSKI:** Definitely.

MS McDONALD: All right. And when you say "definitely", is - why do you say, in that way, "definitely"?

15 **MR RISTEVSKI:** I got the statistics the other day. The last 12 months I've raised around 1,400 on my own and every other councillor, 10 of them, raised 300.

MS McDONALD: And, sorry, this is since October you've raised 1,400?

20 **MR RISTEVSKI:** Correct.

MS McDONALD: And the 1,400, can that cover a number of matters? For example, if a constituent raises with you a particular concern you can - I'm just trying to work out -

25 **MR RISTEVSKI:** Yes. But the problem -

MS McDONALD: - what's covered under 1,400.

30 **MR RISTEVSKI:** The problem we've got with the councillor assistance - the reason I can't answer that question -

MS McDONALD: Yes.

35 **MR RISTEVSKI:** - is I can't log in and see all my councillor requests. Everything's done via email. So you can't monitor what you've raised, you can't monitor the status. So I have no way of knowing, unless I go through 1,400 emails, which one relates to this, can this be grouped together.

40 **MS McDONALD:** All right.

MR RISTEVSKI: There is no system to allow you to do that.

45 **COMMISSIONER:** Just give me some general examples, though, of the things that over the last 12 months you have raised.

MR RISTEVSKI: Yes.

COMMISSIONER: And I'm not -

MR RISTEVSKI: And a lot of -

5 **COMMISSIONER:** - asking you to recount the 1,400, obviously.

MR RISTEVSKI: Yes.

10 **COMMISSIONER:** That would be unreasonable. But what sort of things, if it came to your attention, are you raising with that -

MR RISTEVSKI: A lot of it would be -

15 **COMMISSIONER:** Through that mechanism?

MR RISTEVSKI: - cleanliness of the city, but -

20 **COMMISSIONER:** Is that based on your own observation or things that are reported to you or maybe both?

MR RISTEVSKI: Reported to me, and myself. But the locations are not always the same.

25 **COMMISSIONER:** Yes.

MR RISTEVSKI: So it's difficult to group them all together with their different locations.

30 **COMMISSIONER:** All right. So that's one. What else?

MR RISTEVSKI: The budget is another example. I would get complaints about ratepayers not wanting a rate increase or to spend \$3.2 million on festivals.

35 **COMMISSIONER:** All right. You get -

MR RISTEVSKI: You can't -

40 **COMMISSIONER:** That comes to your attention. What are you raising about that issue through the councillor - it's Councillor Support, isn't it?

MR RISTEVSKI: Yes. Correct.

MS McDONALD: Yes.

45 **MR RISTEVSKI:** That you can't group because when it was on public submission everyone is entitled to comment. So I would just forward the comments I've received to Councillor Support.

COMMISSIONER: All right. So you're asking them - the staff -

MR RISTEVSKI: I -

5

COMMISSIONER: - to do something or are you just raising it for their awareness or -

10 **MR RISTEVSKI:** No. "Please submit this as part of the public submission regarding the budget."

COMMISSIONER: I see.

15 **MR RISTEVSKI:** So I had about 180 just in relation to that, and statistically there's only been five.

MS McDONALD: So in respect of constituents' complaints or submissions they want to make about the budget, the procedure you adopted was - a constituent would email you a concern?

20

MR RISTEVSKI: Correct.

MS McDONALD: And that you would, in a sense, be a conduit, in that you would then forward it to Councillor Support?

25

MR RISTEVSKI: Exactly.

MS McDONALD: And then your expectation was the comment by the constituent is then fed into - these are the comments on the proposed budget that the council should take into account and possibly debate?

30

MR RISTEVSKI: Exactly.

MS McDONALD: Okay. Any other - and as the -

35

COMMISSIONER: You can take over.

MS McDONALD: - Commissioner has indicated, we've got - when you - you know, cleanliness, the question of the budget.

40

MR RISTEVSKI: Another one was a DA. There's a - there's a mosque proposed for Austral. I've had quite a number of complaints against it come to me. Then I'd act as a conduit, forward it to Councillor Support, where they would make it as part of the public submissions either for or against. What else has there been? I guess it's mainly around that kind of stuff.

45

MS McDONALD: Not wanting to be critical, but the 1,400, it appears that a number of those are where you're acting as a conduit?

MR RISTEVSKI: Correct.

5

MS McDONALD: Do you use the - the Councillor Support to ask for information from the council staff that you might want to use to formulate a notice of motion?

MR RISTEVSKI: Yes. That's another example.

10

MS McDONALD: So in a sense, information-gathering?

MR RISTEVSKI: Correct.

15

MS McDONALD: Now, we've got the policy up. The first part of it that I want to take you to - if we start on page 8, part 5, the Councillor Request System.

20

COMMISSIONER: Whilst that's happening - I'll just say this out loud to remind myself, but we might get the updated statistics that the councillor's referred to at a point in time when the evidence closes.

MS McDONALD: Can I just ask you on that. Were they produced at a council meeting, the updated stats?

25

MR RISTEVSKI: No, I personally requested them.

MS McDONALD: Right. That was -

30

MR RISTEVSKI: That's another example of using the Councillor Support.

MS McDONALD: Example of through Councillor Support. You said, "How many" -

35

COMMISSIONER: "How many times have" - send an email to Councillor Support saying, "How many times have I emailed you?"

MR RISTEVSKI: Yes. Correct.

40

MS McDONALD: There - also you asked for comparable stats that you felt (indistinct) councillors?

45

MR RISTEVSKI: Exactly, because I did raise the motion about Councillor Support. And the old policy gave them three days. I would never get a response within three days. So I needed to know the statistics, and that's how I determined 30 days.

MS McDONALD: You actually put forward a motion, I think, that - to give them more time?

MR RISTEVSKI: Correct. Yes.

COMMISSIONER: I think we've seen - I've been shown that.

5

MS McDONALD: Yes.

COMMISSIONER: Yes.

10 **MS McDONALD:** So we've got part 5, the Councillor Requests Systems. What I want to take you in particular to is on the next page, 5.12. If you need to read all of this section, please let me know, but I wanted to draw your attention to 5.12:

"The CEO may refuse access to information requested by a councillor".

15

And then if we can go to the top of the next column, there are four subparagraphs there. I wanted to draw your attention to (a):

"The information is not necessary for the performance of the councillor's civic functions."

20

And then (b):

"If responding to the request would, in the CEO opinion, result in an unreasonable diversion of staff time and resources."

25

MR RISTEVSKI: Yes.

30 **MS McDONALD:** My first question about that is since this has been brought into operation, albeit since the end of July, have you made any requests through the Councillor Support system where the CEO has refused access to the information?

MR RISTEVSKI: Yes.

35 **MS McDONALD:** Was a reason given to you?

MR RISTEVSKI: Yes.

MS McDONALD: And does the reason come within one of those paragraphs?

40

MR RISTEVSKI: Yes.

MS McDONALD: What was the information you were - and, sorry, I should just say first was it one occasion or have there been more?

45

MR RISTEVSKI: I can give you two examples.

MS McDONALD: So there's been two occasions?

MR RISTEVSKI: Yes.

5 **MS McDONALD:** Can you give me the first occasion?

MR RISTEVSKI: The Intermodal. I wanted some information concerning traffic reports around the Intermodal, and was the Intermodal paying rates. Around the - the whole Intermodal aspect, which is a big community issue out there. The response I
10 got was, "That's going to take more than five hours. If you want this information you have to move a notice of motion."

MS McDONALD: The response came from the CEO?

15 **MR RISTEVSKI:** No, it came from Farooq Portelli.

MS McDONALD: All right. And did he expressly refer to, for example, subparagraph (b)?

20 **MR RISTEVSKI:** No, he - I remember it was, "You're entitled to X amount of hours. If it's going to take more than that you need to raise a notice of motion."

MS McDONALD: Can you recall when this correspondence occurred?

25 **MR RISTEVSKI:** Actually, it was before this policy came out.

MS McDONALD: Okay. The second example that you're going to give us, did that occur after this policy?

30 **MR RISTEVSKI:** Yes.

MS McDONALD: What were you seeking?

MR RISTEVSKI: There was a constituent saying the playground needs to be
35 upgraded at Chipping Norton. I gave them details. And the response I got was we don't have the budget for it. And then I responded back saying, "What would something like that cost?" And the response I got back was literally, "It's none of your business. It's operational." And I'm thinking, well, I need to know costs because it's part of the budget. If I need to allocate money in the budget I need to know what
40 it will cost, and they refused to give me that information because it was operational. But I just - that's a big concern for me. They tend to stop you by using the word "it's operational". It's a very grey area.

MS McDONALD: Okay. Can I just pause there. So this second information, a
45 constituent raised there's a playground that needs to be upgraded. You then made, through Councillor Support, a request about, if the playground upgraded, how much it would cost. Is that -

MR RISTEVSKI: No, I'm saying, "Can we upgrade it?" They said -

MS McDONALD: "Can you upgrade it?"

5

MR RISTEVSKI: And they said we don't have the budget for it.

MS McDONALD: Yes.

10 **MR RISTEVSKI:** And then I said, "What would the budget of this cost?" And that's when they refused to tell me.

MS McDONALD: All right. The - who sent you the response saying "operational", it's not going to be provided?

15

MR RISTEVSKI: Director Peter Scicluna.

MS McDONALD: So it was - he's a director of operations?

20 **MR RISTEVSKI:** Correct.

MS McDONALD: He's probably called something else now, but that's, in substance -

25 **MR RISTEVSKI:** Yes.

MS McDONALD: - his role. And again, did he refer specifically to any of the paragraphs under 5.12?

30 **MR RISTEVSKI:** No.

MS McDONALD: When did that occur?

MR RISTEVSKI: In the last month.

35

MS McDONALD: And they're the two instances where you have sought information and it hasn't been provided?

40 **MR RISTEVSKI:** There was one other instance I just remembered now. When they - it was before my time, but a lot of residents were complaining about the library, "Why does it have an Aboriginal name? Why did we change the name from Liverpool Library to" - I can't even remember now what it was called. And I asked, "Was there community consultation?", and they refused to give me information on that. So I had to ask it via a questions with notice and it was answered that way.

45

MS McDONALD: All right. So you did seek that information, when you were a councillor, using Councillor Support?

MR RISTEVSKI: Yes, recently.

5 **MS McDONALD:** And what was the reply you got - why you wouldn't be provided with that information?

MR RISTEVSKI: It was very - I can see they were turning me left, right and centre trying to confuse me with their response. I just wanted a direct answer.

10 **MS McDONALD:** Well, did - and, sorry, was this request that you made after the introduction of this new policy?

MR RISTEVSKI: When did that come in? June, did you say?

15 **MS McDONALD:** 23 July.

MR RISTEVSKI: Yes, there must have been a policy in place, I think, before this one.

20 **MS McDONALD:** Yes. But it was in different terms?

MR RISTEVSKI: Yes. That's right. So it was under the old policy.

25 **MS McDONALD:** Okay. But ultimately, you achieved what you were after by utilising question with notice -

MR RISTEVSKI: Correct.

30 **MS McDONALD:** - through a council meeting?

MR RISTEVSKI: Correct.

35 **MS McDONALD:** All right. With your 1,400 Councillor Support enquiries, at times when - I suppose the playground might be a bit of an example - a constituent raises an issue with you, and then you can raise that issue and basically ask what is happening in respect of that issue through Councillor Support?

MR RISTEVSKI: Yes.

40 **MS McDONALD:** And usually - is it usually what occurs with that - is that you make the request through Councillor Support and then you get a - first you get a response acknowledging that you've made the request?

45 **MR RISTEVSKI:** Correct.

MS McDONALD: And then whatever area, whatever directorate of the council it involves, you might start receiving emails from either a director or a manager or somebody in a relatively senior position within that area?

5 **MR RISTEVSKI:** Yes.

MS McDONALD: Now - excuse me. Mr Ristevski, have you been either tuning in or reading the evidence that's been heard during the inquiry?

10 **MR RISTEVSKI:** Tuning in.

MS McDONALD: Sorry?

MR RISTEVSKI: Tuning in. Listening.
15

MS McDONALD: Do you recall some evidence from a Mr Rodricks?

MR RISTEVSKI: Yes.

20 **MS McDONALD:** All right. I want to ask you some questions about his evidence.

MR RISTEVSKI: Yes.

MS McDONALD: Now - and again, I don't want to be unfair to you, but if I can try
25 and shortcut it. But if you say, "No, look, I want to see that email," or whatever, we can easily accommodate that.

MR RISTEVSKI: Sure.

30 **MS McDONALD:** Okay. This concerned an email that you sent on 3 March to Councillor Support, and it was on behalf of a member of the community.

MR RISTEVSKI: Yes.

35 **MS McDONALD:** And you attached photos and videos?

MR RISTEVSKI: Yes.

MS McDONALD: And if I - you seem to have a direct quote from the member of
40 the community that was taking issue that:

"A neighbour was putting logs in between the fence which is causing it to lean into our property."

45 **MR RISTEVSKI:** Correct.

MS McDONALD: Do you remember that?

MR RISTEVSKI: Yes.

MS McDONALD: And then - I won't read it all out, but:

5

"The concrete retaining wall is broken. We feel our privacy is being invaded."

And "he", which I think's the neighbour:

10 "...takes advantage when we aren't there."

Him and his son put broken screws or put logs in between - something along those lines?

15 **MR RISTEVSKI:** Yes.

COMMISSIONER: Just for the transcript, Ms McDonald, do you have the doc ID of this email exchange so I don't have to -

20 **MS McDONALD:** I'm sorry, I should have put that on -

COMMISSIONER: That's all right.

MS McDONALD: LCC.007.002.0006.

25

COMMISSIONER: Thank you.

30 **MS McDONALD:** And you may recall that you received an email acknowledging receipt. Then you received an email from somebody - head of councillor executive and support - saying, "Can you give us the name and address of the resident with the issue so the appropriate team can go out there?"

MR RISTEVSKI: Yes.

35 **MS McDONALD:** And that was LCC.007.002.0022. And as part of that email chain, you responded with an address?

MR RISTEVSKI: Correct.

40 **MS McDONALD:** The evidence that you probably didn't know about - but then there was exchanges between the operations staff about getting somebody out there, somebody goes out there, does an inspection, I think speaks to the member of the community.

45 **MR RISTEVSKI:** Correct.

5 **MS McDONALD:** And then ultimately, on 3 April, you receive an email - and this is LCC.007.002.0022. And again, I'm just trying to summarise it, "An inspection by a council officer did not identify any unauthorised activity. Only logs observed on site were being used for a garden bed and as a retaining wall to a fence, both of which are considered exempt development. No further action can be taken on this matter."

And then:

10 "Please don't hesitate to contact me if you wish to discuss it further."

MR RISTEVSKI: Yes.

15 **MS McDONALD:** You respond, still as part of that email, on 7 April with - what you appear to do is resend the complaint that was in your first email?

MR RISTEVSKI: Yes.

20 **MS McDONALD:** You're talking about putting logs, there's the concrete wall - retaining wall is broken, et cetera. So it seems - appears that whatever was sent to you by the member of the community, you've cut and paste?

MR RISTEVSKI: Yes. Yes.

25 **MS McDONALD:** It was in your original email and you just send that back?

MR RISTEVSKI: Yes.

30 **MS McDONALD:** Then, after you do that, you receive another email - and this is still part of that email chain that I read out - where they say:

"I can confirm the matters raised do not constitute development under the EP&A Act. As such they fall outside the council's regulatory jurisdiction."

35 Then further there's a comment about, look, usually if there's a dispute about fences it's the Dividing Fences Act and some kind of community mediation is the way forward. And then there were some details about the Justice - Community Justice Centre. You respond the next day - and this is still part of this email chain - and you say:

40 "I think we are on the wrong page. The retaining wall is illegal with no DA. The retaining wall has been removed and replaced with concrete and logs. The retaining wall is not supported well. Can you please come back to me?"

45 And then you receive an email on 11 April - and again, it's part of that document that I read out - where you were told:

"The council officers have determined that the low-lying retaining structure which is bounded by timber paling and separate from the dividing fence appears structurally sound."

5 And again:

"Any impact on the fence caused by objects being placed in the gap is a civil matter. No further action from council."

10 And then you respond on the 16th - still part of that email chain - you request a meeting with the relevant resident and council?

MR RISTEVSKI: Correct.

15 **MS McDONALD:** And then - that's on 16 April. And on 23 April you get a response to that - this is still the same document:

"I have reviewed the matter. Confirms the low-lying retaining wall does not warrant compliance action. As such an on site meeting is not considered necessary."

20

And again refers to, the concern seemed to be a dividing fence issue, they're raised under this Act, and go off to a Community Justice Centre.

MR RISTEVSKI: Yes.

25

MS McDONALD: And then it would appear that the correspondence with you ends?

MR RISTEVSKI: Yes.

30

MS McDONALD: Now, the issue that seemed to arise from the evidence when we went through all of this - and, sorry, can I just check, you're okay -

MR RISTEVSKI: Yes.

35

MS McDONALD: - with my brief summary? Is that - the matters you raised on behalf of the member of the community were either under the question - concerned exempt development, so it wasn't a matter of a DA or a development consent - seemed to raise issues of the fence and the coming under dividing fence legislation which isn't under the jurisdiction of the council and should be referred elsewhere?

40

MR RISTEVSKI: Mmm.

45 **MS McDONALD:** And it would appear that the concern was that those concerns go to the jurisdiction of the council - can the council actually deal with these matters?

MR RISTEVSKI: Yes.

MS McDONALD: You were told that, in substance, they didn't come within the council's jurisdiction, but you kept on pressing it?

5

MR RISTEVSKI: I think there was - lost in translation. The resident was talking about a retaining wall, which is part of the council criteria, while the council officer was talking about a fence. So I was the conduit between the two and that's why I suggested let's have a meeting, because these emails are going back and forth, back and forth, let's sit at a roundtable and try and get to the bottom of this, and that's where the matter ended.

10

MS McDONALD: There was no on-site meeting?

15

MR RISTEVSKI: No.

MS McDONALD: Do you - and I know I've done it in a very quick, abbreviated fashion, but do you agree with a concern that you didn't appear to accept the jurisdictional limits of the council staff as to what they could deal with?

20

MR RISTEVSKI: I disagree.

MS McDONALD: Your view was, even though you were told that there - in substance, there wasn't jurisdiction, your view that - was that there was?

25

MR RISTEVSKI: And that's why I suggested a meeting. We weren't getting anywhere with the emails.

MS McDONALD: All right. But you didn't press that any further?

30

MR RISTEVSKI: No. One thing I need to say - I moved a motion in council that adopts - council must adopt a solutions-based approach. None of this, "Yes, no, it can't be done." If it can't be done, provide a solution. And I believe that - that email chain went contrary to that notice of motion that was passed at council. There was no solution-based approach. It was simply, "No, no, no." And I suggested the meeting between the resident, myself and council officer would be helpful so we can conclude the matter.

35

MS McDONALD: But if you - the meeting with the resident, given the email exchanges and the information that's before the inquiry about the operational staff's view, would be along the lines of, "This isn't a matter for council"?

40

MR RISTEVSKI: Well, I was never privy to a meeting. They never had a meeting with the resident. He was - I believe he was never there when they turned up. By the three of us being present at the one location we could have resolved that one.

45

MS McDONALD: Now, where the - I can understand solution-based approach, but a solution-based approach has to be dependent upon the council having the jurisdiction, the powers, to deal with the matter?

5 **MR RISTEVSKI:** They have jurisdiction when it comes to a retaining wall.

MS McDONALD: But you were told that, "The low-lying retaining wall does not warrant compliance action. As such, an on-site meeting is not considered necessary"?

10 **MR RISTEVSKI:** And that's where it stopped.

MS McDONALD: Because they've looked at it. It's either a matter that they don't have jurisdiction over or power to deal with, and the low-lying retaining wall doesn't warrant compliance action?

15 **MR RISTEVSKI:** What the email was saying - that we looked at the retaining wall and it was fine. So, council do have jurisdiction over a retaining wall. They inspected the retaining wall and they said the retaining wall is structurally sound.

20 **MS McDONALD:** And they concluded it was?

MR RISTEVSKI: And then I didn't respond after that. So that's where we got to that conclusion. I wanted them to look at the containing wall, not the fence.

25 **MS McDONALD:** But - so when they informed you on 23 April that in respect of the retaining wall - that it was fine, that it didn't warrant compliance action, you were satisfied with that?

30 **MR RISTEVSKI:** When they came back to me and said, "We don't need to meet. We looked at the retaining wall. It's structurally sound," I moved on.

MS McDONALD: All right.

35 **COMMISSIONER:** I'm not sure I - and it's not a criticism of your answer at all, I just want to get a better understanding -

MR RISTEVSKI: Yes.

40 **COMMISSIONER:** - of what you mean by a solution-based approach. What do you have in mind by that?

45 **MR RISTEVSKI:** Well, the - the email chains - is an example that communication didn't work. We were going back and forth, back and forth. I think if we just had a - one meeting initially we could have resolved all of that with the resident on site, and then given him a solution verbally rather than, "Look, we've looked at this retaining wall. You think it's structurally unsound. We've looked at it, it's fine. What you're pointing out towards the fence, that's outside our jurisdiction. But if you could

do this" - I needed the constituent to be present with myself to be able to resolve it in one meeting.

MS McDONALD: The council officer did meet with the owner of the house?

MR RISTEVSKI: I wasn't present, so far as I know, that - I wasn't aware.

MS McDONALD: Because in your answer you said that your understanding was that there was no meeting with the member of the community, and there was. That's reflected in evidence before the inquiry. But a solution-based approach, you agree, has to be based on a - it concerns a matter or a solution for a matter where the council has jurisdiction and power to deal with it?

MR RISTEVSKI: I agree.

MS McDONALD: And if you're informed, when making an enquiry on behalf of members of the community, that you don't meet the jurisdictional or power requirements, that should be the end of the matter?

MR RISTEVSKI: Yes, but the constituent was talking about the retaining wall, the council officer was talking about the fence, and I think there was a breakdown in communication. But I must say, no one's ever spoken to me about it. When I first heard it - and the ridicule that was being spoken, "Oh, here's another Ristevski special" - you know, like, it was very disrespectful. I'm just trying to do my job. And no one's ever come to me and said, "Look, this is how you should do it. This is where you stop. This" - even to this day it hasn't happened.

MS McDONALD: When you say "nobody's come to me", is that on this - sorry - specific issue or more generally how you should be interacting with staff?

MR RISTEVSKI: Exactly. They should have sat -

MS McDONALD: No, sorry, which is it? You've said -

MR RISTEVSKI: Well, they should have -

MS McDONALD: - "nobody's come to discuss this with me". Is it on this specific issue or maybe more generally about "how I interact with staff"?

MR RISTEVSKI: Both. If there was an issue they should have - all be - I would have - came in and - and sat down and explained it to me and we would have - but even to this day they haven't. I only found out through watching the evidence that it was an issue, which shouldn't be the case.

MS McDONALD: So your point is if there was a concern within the operational staff that you were pressing a matter where their view was no jurisdiction and no

power, you should have - that should have been directly and personally raised with you instead of through emails?

5 **MR RISTEVSKI:** Well, not through emails but through the evidence. When - I didn't realise this was a big issue like that. I had no idea. When I watched the evidence I thought - I'm just trying to do my job.

COMMISSIONER: Those - I'm sorry, I didn't mean to interrupt. You go.

10 **MR RISTEVSKI:** Yes.

COMMISSIONER: Had you finished?

15 **MR RISTEVSKI:** Yes. If it was such a big issue I should have been spoken to - come in and shown, you know, what to do, what not to do, and it would have been resolved. Even to this day I haven't been spoken to about - am I still continuing down that path that you've just - there are other examples besides that that I'm unaware of. No one's actually said anything to me.

20 **MS McDONALD:** All right.

MR RISTEVSKI: Is it just this one isolated incident out of the 1,400 requests? I mean, that's still pretty good - one per cent out of 1,400 is still pretty good. Yes.

25 **COMMISSIONER:** You put that on the basis of power and jurisdiction. There might also have been an element of operational staff have considered it and -

MS McDONALD: Yes.

30 **COMMISSIONER:** - determined it. I just - in fairness to the witness, if you wanted to explore that angle or avenue - or issue, I should say, as well.

35 **MS McDONALD:** Where you're dealing with making requests or asking questions about matters that concern operational matters - I think because of the emails here, it - there were limitations on what the staff could do, as - I've described it as jurisdiction and power. But also, as you know, there is a demarcation between the governing body and then operational matters, where you might be pursuing a matter and the response is along the lines of, "That's an operational matter, not a matter for a councillor."

40 **MR RISTEVSKI:** Correct.

MS McDONALD: Have you come across a response like that at times?

45 **MR RISTEVSKI:** Yes, I mentioned it before. The cost of the playground.

5 **MS McDONALD:** Right. Do you accept that, given the demarcation between the governing body and the staff and operational matters and decision by the governing body - do you accept that there are some areas of - well, sorry - that if you raise a matter through the Councillor Support service which raises operational matters, it is justifiable and you should accept when you are told, "No, we can't discuss that. We can't provide the information because you've gone over the demarcation line"?

10 **MR RISTEVSKI:** Well, the one that I mentioned is very grey. It's - we're - as council, we're responsible for the budget. So if I want to allocate the budget to get this playground updated I need to know what it will cost. I don't understand how it becomes operational. I need to have some numbers. And we've seen that council has a major problem with doing its budget - it can't get it right. And we're not talking minor. The report that comes out tonight is the financial statements showing a \$10 million loss when they budgeted for a \$2.6 million surplus. So there's an issue
15 there.

COMMISSIONER: Take the example in the email exchange to which counsel assisting has referred, where a council staff member has determined that there was no - compliance action wasn't warranted - I think is the phrase - in relation to the retaining wall. What about that? Take it away from the budget scenario, but -
20

MR RISTEVSKI: Yes. Look, I - I accept that, because I - I didn't - email chain stopped after that.

25 **MS McDONALD:** All right.

COMMISSIONER: Yes. The councillor is returning at 10 am?

30 **MS McDONALD:** Tomorrow morning, at 10 am.

COMMISSIONER: All right. Councillor -

MR RISTEVSKI: Yes.

35 **COMMISSIONER:** - that concludes your evidence for today.

MR RISTEVSKI: Thank you.

40 **COMMISSIONER:** We're interposing one of your colleagues at 2 o'clock.

MR RISTEVSKI: Thank you.

COMMISSIONER: So I'll see you back here at 10 am tomorrow.

45 **MR RISTEVSKI:** Thank you.

COMMISSIONER: Thank you for your attendance and attention during the morning. And I'll adjourn until 2 pm.

<THE WITNESS WITHDREW

5

<THE HEARING ADJOURNED AT 1.05 PM

<THE HEARING RESUMED AT 2.08 PM

10 **COMMISSIONER:** Yes. Councillor, you're still on your oath from last week.

MR HARTE: Lovely.

<MATTHEW WILLIAM HARTE, ON FORMER OATH

15

MS McDONALD: Can you just excuse me. Commissioner, can I ask the - if we can use the split screen again. So on one side we have the emails at HAR.004.001.0001. No, that's fine. But on the other side if we could have the emails. It's HAR.004.001.0001. And the - I'm sorry, the messages were HAR.003.001.0001.

20 Now, Mr Harte, yesterday afternoon I had taken you to some of these messages. And with the text messages on the right - if you would jump through to page 35, please. You'll recall I took you to these messages around 18 November, where Mr Breton asks your advice about preselection sites and asking:

25 "What are you guys doing around them?"

MR HARTE: Yes.

MS McDONALD: And then if we go across to page 36, I think you answer with some locations. And again:

30

"Can you approach or is it 50 metres ... you're allowed to stand there".

35 And I think you gave the evidence that you were wearing a sandwich board at times during this election?

MR HARTE: Correct. Yes.

MS McDONALD: All right. Now -

40

COMMISSIONER: Might need a photo of that.

MS McDONALD: Sorry?

45 **COMMISSIONER:** Sorry, I'm being -

MR HARTE: I'm sure there is one. I'm sure there is.

MS McDONALD: Now, with the emails - excuse me for a minute. Could we go through to page 77. And can you see there an email that you send Mr Breton - this is 22 November - and you attach an invoice?

5

MR HARTE: Yes.

MS McDONALD: And you say:

10 "Call Ned tomorrow re more funding and let's go from there."

MR HARTE: Yes.

15 **MS McDONALD:** And the invoice is the one that appears at page 78. Centrum Printing Proprietary Limited.

MR HARTE: Yes.

20 **MS McDONALD:** Is that email - I'm sorry. That invoice, is that an invoice from Percy's company?

MR HARTE: Yes.

25 **MS McDONALD:** Percy, who you informed Mr Breton to contact and say he was connected with Mr Mannoun?

MR HARTE: Yes.

30 **MS McDONALD:** And you're forwarding the invoice. Even though the invoice is made out to Mr Breton, did you organise the printing of what appears to be either flyers or something like that, given the details?

MR HARTE: I'm not sure, to be - I don't remember if I did or not.

35 **MS McDONALD:** Why would the invoice come to you so you have to forward it to Mr Breton?

MR HARTE: That's - I - I'm not sure. It's addressed to Jason, but I -

40 **MS McDONALD:** It's addressed -

MR HARTE: But I don't know why it came to me.

45 **MS McDONALD:** But if you look under Delivery Address, it just has "Jason Breton Independent", no other email address or any other details as to how Centrum Printing could contact Mr Breton. Do you agree with that?

MR HARTE: Yes.

5 **MS McDONALD:** Doesn't that suggest that whatever has been organised to be printed, you have organised it, but on the understanding you were going to forward the invoice to Mr Breton?

MR HARTE: Could have been the case, but I remember I did send Jason Percy's contact details. So I'm not sure whether I did or not.

10 **MS McDONALD:** All right. You just can't explain why there's no details of how to contact Mr Breton or any - or "Jason Breton Independent" and it's come to you?

MR HARTE: I received it, I didn't - yes, I don't remember, to be honest.

15 **MS McDONALD:** Okay. If we go back to page 77, the subject matter is "Nathan attack inv". "Inv" stands for invoice?

MR HARTE: Yes.

20 **MS McDONALD:** "Nathan attack", is that a reference to attack of Nathan Hagarty?

MR HARTE: Yes, I assume so. Yes.

25 **MS McDONALD:** He was standing as a candidate affiliated with the Labor Party?

MR HARTE: Yes.

30 **MS McDONALD:** Do you recall organising for some kind of flyer or some kind of printed material which was an attack on Mr Hagarty?

MR HARTE: I - I can't recall definitively, but I - I assume so.

35 **MS McDONALD:** And again, not being critical, but that's something you do in electoral campaigns?

MR HARTE: Yes.

MS McDONALD: Whoever your opposition is, you attack your opposition?

40 **MR HARTE:** Yes.

MS McDONALD: And it appears that the invoice that's on page 78, it's for the printing that's to do with the Nathan attack invoice?

45 **MR HARTE:** No, I accept that. I can't see it here exactly, but, yes, I accept that.

MS McDONALD: Do you want to have a look at the invoice?

MR HARTE: No, I accept that's - yes.

5 **MS McDONALD:** All right. And so from this, is Mr Breton - you're forwarding him an invoice with the expectation that he will pay for a Nathan attack -

MR HARTE: Yes.

10 **MS McDONALD:** - flyer or whatever it was?

MR HARTE: Yes.

15 **MS McDONALD:** Now, if we then go in the emails to page 79, you can see there, again under the subject re Nathan attack invoice, Mr Breton responds with:
"I can pay 30% of that, Matt."

MR HARTE: Yes.

20 **MS McDONALD:** 30 cent - sorry, 30 per cent being the Nathan attack invoice that appears at page 78?

MR HARTE: Yes.

25 **MS McDONALD:** And then if we go to page 80 - again, this is the continuation of this email chain. You say, at 9.11 pm on 22 November:

"We will get you more [dollars]."

30 So we will get you more money?

MR HARTE: Yes.

35 **MS McDONALD:** And when you say "we will get you more money", were you referring to organising more donations for Mr Breton?

MR HARTE: Yes.

40 **MS McDONALD:** Or any money to assist him in his campaign?

MR HARTE: I'm - what do you mean by -

MS McDONALD: Well, you've said "we will get you more money".

45 **MR HARTE:** Yes. As in a donation, yes.

MS McDONALD: Donations which can also be in money and also in-kind - non-monetary?

MR HARTE: Potentially, yes.

5

MS McDONALD: If we then go across to page 81, Mr Breton responds on the 22nd:

"I simply do not have the funds unless they come in through new donors."

10

MR HARTE: Yes.

MS McDONALD: Now, that's on 22 November. Excuse me for a minute. If I can ask for some other documents to be brought up. ELC.003.001.0014, at page 2, please. Yes. And as we left that, you could see that email exchange where Mr Breton's saying, "I need more money" -

15

MR HARTE: Yes.

20 **MS McDONALD:** - that all occurred on 22 November?

MR HARTE: Yes.

25 **MS McDONALD:** Now, you can see here - and this was - your evidence was you completed this cash receipt?

MR HARTE: Yes.

30 **MS McDONALD:** You've recorded \$1,000 of an EFT - through an EFT being received from Squashlands Gym, Liverpool?

MR HARTE: Yes.

35 **MS McDONALD:** That was the - according to the date of the receipt, that was the next day?

MR HARTE: Yes.

40 **MS McDONALD:** Did you organise that donation?

MR HARTE: No.

MS McDONALD: To your knowledge, did Mr Mannoun organise that donation?

45 **MR HARTE:** I'm not sure, but I - given that email, that probably was the case.

MS McDONALD: Could we then move to page 5.

COMMISSIONER: Have you got some water there with you?

MR HARTE: Yes, I've got it.

5

COMMISSIONER: Yes.

MS McDONALD: This is another - sorry. I have got them out of order. Would you first go to page 3. Now, this was the in-kind donation of the envelopes?

10

MR HARTE: Yes.

MS McDONALD: And you will recall I asked you earlier in your evidence - SA Emerald Proprietary Limited, that was a company associated with Mr Mannoun's brother?

15

MR HARTE: Yes.

MS McDONALD: So that donation in-kind came through around 28 November?

20

MR HARTE: Appears so, yes.

MS McDONALD: And then if we jump to page 4, another in-kind donation, again from Mr Mannoun's brother, for distribution of letter?

25

MR HARTE: Yes.

MS McDONALD: The cost of the distribution of letter, do you know what that actually was for?

30

MR HARTE: I'm not sure.

MS McDONALD: Like, how it was distributed?

35

MR HARTE: No, I don't know.

MS McDONALD: It could be through Australia Post stamps?

MR HARTE: Yes, it could be a variety of different ways.

40

MS McDONALD: Or paying an organisation to distribute on your behalf - on - sorry, on Mr Breton's behalf?

MR HARTE: Potentially, yes.

45

COMMISSIONER: Do you mean by a letterbox drop?

MS McDONALD: Yes. Sorry. Thank you.

MR HARTE: Yes, that's - yes, that's probably - yes.

5 **MS McDONALD:** And then if we jump through to page 5, we've got the \$1,000 coming from Joe Cannavo?

MR HARTE: Yes.

10 **MS McDONALD:** And we'll come back to that in a minute. So it seems after the 22 November email chain where Mr Breton is raising "I need money, I need donors", there seems to be some donors organised for Mr Breton?

MR HARTE: Yes.

15 **MS McDONALD:** Were you actually involved in the - any of those donations?

MR HARTE: No.

20 **MS McDONALD:** So you didn't organise through Mr Mannoun's brother's company for the envelopes or the distribution?

MR HARTE: Not that I can recall, no.

25 **MS McDONALD:** And I think you've given evidence before - you didn't organise the donation from Mr Cannavo?

MR HARTE: No.

30 **MS McDONALD:** All right. Excuse me for a minute. Now, could we go back to the split screen, please. And can we go on the emails to page 82, please. Email from you to Mr Breton?

MR HARTE: Yes.

35 **MS McDONALD:** On 29 November:

"Please see attached letter for your approval."

40 And if we jump across to page 83, we have:

"Jason Breton for Liverpool Council South Ward. Let's keep them honest on December 4."

45 And sets out some of his election campaign.

MR HARTE: Yes.

MS McDONALD: And just to follow - if I take you to page 84, you can see there Mr Breton responds on that day:

5 "Change the yellow script mate - can't read it."

MR HARTE: Yes.

10 **MS McDONALD:** And if we jump back to page 83, we can see there's some script there in yellow. Right?

MR HARTE: So - yes, at the top. Yes.

15 **MS McDONALD:** Now, did you draft this on behalf of Mr Breton, the content?

MR HARTE: I can't recall.

MS McDONALD: You may have drafted it for Mr Breton?

20 **MR HARTE:** Maybe.

MS McDONALD: The layout with the photo and the font and all of that sort of stuff, did you organise for that to be done by that campaign volunteer that you described yesterday who was rather good at graphic design?

25 **MR HARTE:** Yes. Yes.

MS McDONALD: Right. So at least you may have had some contribution in - with the content?

30 **MR HARTE:** Potentially, but I can't recall.

MS McDONALD: And the layout, you can remember that this volunteer with the skills assisted with the layout?

35 **MR HARTE:** Yes.

MS McDONALD: Now, still on 29 November, if we go to page 85, you get an email from Mr Breton. Subject, "sig". Attachments, "Bretons Sig". And you have a message:

"Use signature as well".

45 **MR HARTE:** Yes.

MS McDONALD: And if we jump across to page - the next page, that's a copy of the signature that was attached?

MR HARTE: Yes.

5 **MS McDONALD:** I took you yesterday to an earlier stage when Mr Breton had forwarded to you as an attachment his signature.

MR HARTE: Yes.

10 **MS McDONALD:** Do you recall why he's sending it to you again on 29 November?

MR HARTE: I don't remember specifically. No, I can't remember specifically.

MS McDONALD: And the message "use signature as well" -

15 **MR HARTE:** Yes.

MS McDONALD: - what was your understanding of what Mr Breton was referring to in that message?

20 **MR HARTE:** I don't remember specifically - exactly what it was for. It could have been relating to the cash receipts. I'm not sure.

MS McDONALD: All right. But at least from the words, was your understanding that he was giving you permission to use the signature?

25 **MR HARTE:** Yes.

MS McDONALD: Can you recall anything more about whether there were restrictions or what that permission was for?

30 **MR HARTE:** No, not that I can recall.

MS McDONALD: Now, that takes us up to 29 November. And you remember that the election was on 4 December?

35 **MR HARTE:** Yes, I think so. Yes.

MS McDONALD: If we go back to the text messages on page 36, can you see on the - sorry - on 3 December down the bottom a message from Mr Breton:

40 "I have left the [I think that's supposed to be 'corflute'] signs at Liverpool."

MR HARTE: Yes.

45 **MS McDONALD:** And can you keep that message in your mind and can we bring up another document. HAR.002.001.0090. Do you need the number again? Are you

okay? Yes. Yes. Now, you may recall yesterday afternoon there was a document that hadn't been downloaded from documents that you had produced.

MR HARTE: Sure.

5

MS McDONALD: This is the document. It's part of the text messages that you forwarded -

MR HARTE: Sure.

10

MS McDONALD: - to the Commissioner. And again, can you see up the top the repeat of the message that I just took to you on page 36:

"I have left the corflute signs at Liverpool."

15

MR HARTE: Yes.

MS McDONALD: And then there's another message - we're still on 3 December:

20 "Did my corflutes go out or do I need to do this overnight."

And then:

"Okay."

25

And then:

"I will pick them up early."

30 **MR HARTE:** Yes.

MS McDONALD: Now, there's no messages from you responding to that. It just seems to be messages coming from Mr Breton?

35 **MR HARTE:** Yes.

MS McDONALD: When he asks about, "I have left the corflute signs at Liverpool," was it your understanding that they were still at the Terminus Street office?

40 **MR HARTE:** I have left - he might have dropped them off, maybe - as in "I have left the corflute signs at Liverpool" - I'm not sure.

MS McDONALD: So where he says, "I have left the corflute signs at Liverpool," is it your understanding that's the Terminus Street office?

45

MR HARTE: Yes, I'd assume so. Yes.

MS McDONALD: Okay. And then his next question:

"Did my corflutes go out or do I need to do this overnight" -

5 **MR HARTE:** Yes.

MS McDONALD: And then:

"Okay. I will pick them up early."

10

MR HARTE: Yes.

MS McDONALD: That appears that he's somehow been told that the corflutes, I'm sorry, are still at the office and he's got to pick them up?

15

MR HARTE: Yes, I assume so. Yes.

MS McDONALD: Yes. Because "did my corflutes go out or do I need to do this overnight" suggests that he's asking, "Has somebody else done it" -

20

MR HARTE: Yes.

MS McDONALD: - "or have I got to do it?"

25 **MR HARTE:** Yes.

MS McDONALD: Okay. Now - excuse me for a minute. The election was on 4 December 2021?

30 **MR HARTE:** Yes.

MS McDONALD: Now, could we then move - could we move back - yes. Move back - sorry, if you can kind of keep that around as well, because I'll be referring to it, but if you can refer back to the split screen. And this time with the text messages, can we go through to page 38. Now, these messages aren't text messages, they're messages exchanged through WhatsApp?

35

MR HARTE: Yes.

40 **MS McDONALD:** And can you see on 24 January 2022 you get a message from Mr Breton:

"What's my login for Electoral Commission."

45 **MR HARTE:** Yes.

MS McDONALD: You respond:

"Hi Jason, I'm happy to look after the disclosure for you. I'll just need your signature once it's done."

5 And he responds, "Okay"?

MR HARTE: Yes.

10 **MS McDONALD:** Now, can I ask you, the correspondence, the communication that you have produced between you and Mr Breton, as we've seen in the split screen, have been through text messages?

MR HARTE: Yes. Yes. Yes.

15 **MS McDONALD:** And also emails?

MR HARTE: Yes.

20 **MS McDONALD:** When did you start communicating via the WhatsApp?

MR HARTE: The first message was 24 January 2022.

25 **MS McDONALD:** All right. How was - the ability for you and Mr Breton to communicate via WhatsApp, how was that organised?

MR HARTE: I think we - we both have WhatsApp on our phones and - you know, like, if I message someone - like, I could have texted them or I could send them a WhatsApp, it's -

30 **MS McDONALD:** So if you know that they've -

MR HARTE: Got a WhatsApp account you can message them on WhatsApp.

35 **MS McDONALD:** You can message?

MR HARTE: Yes.

MS McDONALD: Excuse me. Do you know why -

40 **MR HARTE:** Sorry. We might have the same thing.

COMMISSIONER: There's a lot of coughing going on in here today. I'm getting worried.

45 **MS McDONALD:** We're doing a duet, Mr Harte, so -

COMMISSIONER: Mr Parish (indistinct) will be close to the coughers, so -

MS McDONALD: So the communication on WhatsApp, that has been initiated by Mr Breton sending that message about his login?

5 **MR HARTE:** Yes.

MS McDONALD: Do you have any understanding why Mr Breton suddenly started to communicate using the WhatsApp?

10 **MR HARTE:** No. It's not unusual. My communications in general are - you know, personal preference sometimes. Like, you know, sometimes I feel like messaging via message or it might be easier via WhatsApp. Like, you might have WhatsApp on
15 someone.

MS McDONALD: You were - excuse me. You check your WhatsApp messages from - sorry - in 2021 up until sometime in 2022, looking at communications between you and Mr Breton?

20 **MR HARTE:** Sorry, WhatsApp specifically or my communications with Mr Breton?

MS McDONALD: You were asked to look - to produce communications.

25 **MR HARTE:** Yes.

MS McDONALD: You've now produced some WhatsApp -

30 **MR HARTE:** Yes.

MS McDONALD: - messages. When you were determining what to produce -

MR HARTE: Yes.

35 **MS McDONALD:** - you examined your WhatsApp -

MR HARTE: Yes.

40 **MS McDONALD:** WhatsApp account, and this is the first message you received from Mr Breton?

MR HARTE: Yes. I scrolled right to the top and that was the first message.

45 **MS McDONALD:** All right.

MR HARTE: And it happened to be during the period that was stipulated in the - in the notice.

5 **MS McDONALD:** Now, he asks about his login for the Electoral Commission, and you respond:

"...I'm happy to look after the disclosure for you."

10 That suggests that you knew why he needed his login?
MR HARTE: Yes.

MS McDONALD: That is, that disclosure was coming up, that there was a requirement?
15 **MR HARTE:** Yes.

MS McDONALD: And did you know his login?

20 **MR HARTE:** I don't remember.

MS McDONALD: To lodge the various disclosure, which at this point can include donations and expenditure -

25 **MR HARTE:** Yes.

MS McDONALD: - I take it you need a login because you have to log into the Electoral Commission website and the relevant form comes up?

30 **MR HARTE:** Yes, I think so. It might have been, like - could have been the same login for when he was doing his - the nomination and the registration. Might be - I think it might be the same login process.

MS McDONALD: And you knew his login from your involvement with his registration and nomination?
35

MR HARTE: Yes, I'd assume so. I don't remember exactly, but I probably did.

MS McDONALD: All right. Excuse me for a minute. So that's occurring on
40 24 January. Can we jump back to that document, HAR.002.001.0090. Now, can you see on 9 February -

MR HARTE: Yes.

45 **MS McDONALD:** - you've received a message from Mr Breton?

MR HARTE: Yes.

MS McDONALD: He attaches communication from the Electoral Commission?

MR HARTE: Yes.

5

MS McDONALD: That:

"Political donation disclosures are due by 25 February."

10 **MR HARTE:** Yes.

MS McDONALD: And he asks:

"You mentioned you might look after this?"

15

MR HARTE: Yes.

20 **MS McDONALD:** And if - I think it's easier if we jump back to the split screen and to the text messages, page 37. You can see at the top that message from Mr Breton, and you say:

"[Yes] I will. I'm doing everyone's. Will let you know when I need a signature."

25 **MR HARTE:** Yes.

MS McDONALD: And he responds, "Okay"?

MR HARTE: Yes.

30 **MS McDONALD:** Now - then if we go to page 38, the communication between the two of you now continues on WhatsApp?

MR HARTE: Yes.

35 **MS McDONALD:** And can you see, on 20 February, you ask:

"...are you able to send the bank statement for the campaign account [that] you used?"

40 **MR HARTE:** Yes.

MS McDONALD: And you've got:

"Yes I will do it shortly."

45

MR HARTE: Yes.

MS McDONALD: Then if we go - on the bottom of that page it's got a date, 21 February:

"Hi Jason, there was a \$1,000 donation".

5

You see that?

MR HARTE: Yes.

10 **MS McDONALD:** If we jump to page 39, that message is complete but it appears to be on 20 February?

15 **MR HARTE:** I knew that would be of interest so I made sure it could be - I made sure it was - you could see it - the full message on the screenshot, so make sure it didn't look like it was being obscure or anything like that, so -

MS McDONALD: It was just the different dates.

20 **MR HARTE:** That -

MS McDONALD: Sorry. Can you see on the bottom of 38 it's got 21 February:

"Hi Jason, there was a \$1,000 donation".

25 **MR HARTE:** Yes.

MS McDONALD: And then if we jump to page 39, the message, now complete, is on 20 Feb?

30 **MR HARTE:** Yes. I'm not sure why that's the case, actually.

MS McDONALD: All right. From the message that you send either on 20 February or 21 February, which refers to a \$1,000 donation -

35 **MR HARTE:** Yes.

MS McDONALD: - does that suggest that your request of Mr Breton sending the bank statement -

40 **MR HARTE:** Yes.

MS McDONALD: - was provided to you?

45 **MR HARTE:** Yes.

MS McDONALD: All right. So after that, "Are you able to send through the bank statement," "Will do it shortly" -

MR HARTE: Yes.

MS McDONALD: - your recollection was it did come - it was provided to you?

5

MR HARTE: Yes.

MS McDONALD: And then if you go across, you've noticed that there was a \$1,000 donation that says "Liverpool private"?

10

MR HARTE: Yes.

MS McDONALD: Where you've - you've put it in inverted commas "Liverpool private". Is that taken from the bank statement?

15

MR HARTE: Yes.

MS McDONALD: And is that where on - often on bank statements, if there's been an electronic transfer of funds, there's some kind of description of either where it came from or what it was for?

20

MR HARTE: Yes. Which is done by the sender, I believe.

MS McDONALD: Right.

25

MR HARTE: Yes.

MS McDONALD: Okay. So that's got "Liverpool private", and then you ask, "Who is this from?" And on 22 February, Mr Breton's first response is:

30

"Anonymous - Ned knows, I had his name but forgot."

MR HARTE: Yes.

MS McDONALD: Then if we go further down that page, 25 February:

35

"Hi Jason, Ned reckons you would have sent an email to the person that donated. Are you able to check your emails just in case?"

40

MR HARTE: Yes.

MS McDONALD: And Mr Breton responds:

"Yes - give me twenty minutes."

45

MR HARTE: Yes.

MS McDONALD: And if we then go across to page 40, you then receive from Mr Breton - it's got a heading Donor - Mr Breton with his campaign bank account details?

5 **MR HARTE:** Yes.

MS McDONALD: I can give you the unredacted -

10 **MR HARTE:** No, that's fine. Yes.

MS McDONALD: - if you want to have a look. And then he says:

15 "I'm available at [and gives an email address and a mobile number] at any time to answer any of your questions. Once again - thank you."

MR HARTE: Yes.

MS McDONALD: And then underneath that we've got:

20 "Jason, I have deposited \$1,000 into your [I think that might be 'account'] I hope you can put it to good use, best of luck. Regards Joe."

And Mr Breton responds:

25 "Thanks Joe - appreciated."

MR HARTE: Yes.

30 **MS McDONALD:** And then underneath that he messages you:

"Joe. Ned will know last name."

And you say:

35 "Yes thanks."

MR HARTE: Yes.

40 **MS McDONALD:** And of course, it's around this time that you're completing the disclosure document for Mr Breton?

MR HARTE: Yes.

45 **MS McDONALD:** And as - your evidence is that as part of that you've printed out those cash receipts, the donations? Do you remember -

COMMISSIONER: I think you might have a timing issue there. The cash receipts are dated November, aren't they?

5 **MR HARTE:** It - that was - like, that was around the time of the election, and then the disclosure was after the election.

COMMISSIONER: Yes. The disclosure's February?

10 **MS McDONALD:** Maybe -

MR HARTE: Yes, around -

15 **MS McDONALD:** Sorry, can I just revisit this - and I think I might be getting a little bit mixed up with your evidence. Sorry, I'll just -

COMMISSIONER: So you put as part of the disclosure process the witness was filling out the receipts. My - the issue I'm raising with you is that I thought the receipts were - and the witness has just confirmed - completed at about the time in November and the disclosure was this - what are we talking about - late February period.

20 **MR HARTE:** Yes. Yes.

COMMISSIONER: There's a distinction in timing, that's all.

25 **MS McDONALD:** That's what I wanted to double-check. Could we bring up, please - sorry. If you can just excuse me. If we can bring up ELC.003.001.0013. Yes, please. I asked you some questions previously about this, the half-yearly disclosure for a candidate.

30 **MR HARTE:** Yes.

MS McDONALD: Now, if you keep on going down there, you've got the signature, and you do have a date of 2 February 2022?

35 **MR HARTE:** It says the 7th.

MS McDONALD: 7 February, I'm sorry, 2022.

40 **MR HARTE:** Yes.

MS McDONALD: But if you look at the Office Use, it was received by the Electoral Commission on 26 February?

45 **MR HARTE:** Yes. So the - it's - yes, the date is incorrect, obviously. It's been dated incorrectly.

MS McDONALD: Well, we'll just come back to that. At page 3 - and again, my recollection is your evidence was that's your handwriting.

MR HARTE: Yes.

5

MS McDONALD: You completed that?

MR HARTE: Yes.

10

MS McDONALD: But you did give evidence that this was based on the bank statement that you - that was forwarded to you by Mr Breton - from the entries.

MR HARTE: Yes, it was - like, I - like, a reconciliation of - of the bank statement and the cash receipts. That's why I asked about the \$1,000 donation, because -

15

MS McDONALD: All right. But what did you - I'm sorry, I interrupted you.

MR HARTE: Sorry. No, no. Sorry, go ahead.

20

MS McDONALD: So where - I think I took you to it - you say, "Look, where are the bank statements" or something like that -

MR HARTE: Yes.

25

MS McDONALD: - what did you actually receive from Mr Breton?

MR HARTE: It was the transaction summary.

MS McDONALD: All right. So a document generated by the bank?

30

MR HARTE: Yes.

MS McDONALD: But just dealing with transactions. So money in, money out?

35

MR HARTE: Yes.

MS McDONALD: Now, you can see there the "acknowledgment and cash receipts attached to this PDF"?

40

MR HARTE: Yes.

MS McDONALD: And I took you to those recently. They were the ones that - I think you gave evidence you went down to the newsagent's, you bought the cash receipt?

45

MR HARTE: The book, yes.

MS McDONALD: Book. Sorry.

MR HARTE: Yes.

5 **MS McDONALD:** And is your evidence you filled this out contemporaneously?

MR HARTE: Yes, or near - as close as possible. It was a very hectic time. I don't remember exactly, but it was that - it was around that time.

10 **MS McDONALD:** So for example - I won't take you to it, but the receipt that says "received from Joe Cannavo \$1,000", which was completed on 29 November -

MR HARTE: Yes.

15 **MS McDONALD:** - you were provided that information from Mr Breton, is it?

MR HARTE: Yes, I - that's - yes, I would have got it from him. Yes.

20 **MS McDONALD:** All right. Around that time?

MR HARTE: Yes.

25 **MS McDONALD:** The custody of the cash receipt book after the election was over on 4 December, who had custody of it?

MR HARTE: I'm not sure. I don't remember.

30 **MS McDONALD:** You attach these to the half-yearly disclosure? If - I think we can see -

MR HARTE: I think so, yes.

MS McDONALD: - there, "Acknowledgments and cash receipts"?

35 **MR HARTE:** Yes. Yes.

MS McDONALD: So at some stage you've got custody of it?

40 **MR HARTE:** Yes.

MS McDONALD: Do you recall how in February - that you came to have custody of it?

45 **MR HARTE:** I don't remember if I did.

MS McDONALD: And from the exchange - on 20 February in the WhatsApp you're asking about the \$1,000?

MR HARTE: Yes.

5 **MS McDONALD:** And I took you to the response. First it was anonymous, and then Mr Breton sends through his communication with Joe around the time, where he thanks him and he's getting -

MR HARTE: Yes.

10 **MS McDONALD:** - the money, et cetera, that would suggest that you didn't have the cash receipt book with you when you commenced filling out the document?

15 **MR HARTE:** No, I think it was - I saw it - like, it said "private donation", and I just wanted to make sure, as part of doing, like, the reconciliation, that it was Joe Cannavo - or that donation was from Joe Cannavo, and that's why I asked - just to make sure, "Can you tell me who this \$1,000" - in case I missed a donation, for example. So, "Can you tell me who this is?" And then once I was advised that it was Joe, then I've obviously put two and two together.

20 **MS McDONALD:** Okay. And you needed that confirmation to complete that page?

MR HARTE: To make sure it was accurate.

25 **MS McDONALD:** Yes, to make sure it was accurate. And you didn't get that confirmation that what you were going to enter was accurate until about 20 February, because that's where you were exchanging the WhatsApp messages -

MR HARTE: Yes.

30 **MS McDONALD:** - with Mr Breton?

MR HARTE: Yes.

35 **MS McDONALD:** All right. If we jump back to page 13 - this document, I'm sorry. Sorry, the first page, .0013. Yes. Can you move up a little bit. Where we've got this form must be signed by the person responsible and it's a declaration that all the disclosures required to be made in relation to this period have been made and are true and correct -

40 **MR HARTE:** Yes.

MS McDONALD: That signature has a date after it, 2 February -

45 **MR HARTE:** 7th.

MS McDONALD: 7th, I'm sorry, of February.

MR HARTE: Yes.

MS McDONALD: Do you - and, I'm sorry, I asked you this on the last occasion - that signature, do you recall - was it Mr Breton's signature?

5

MR HARTE: Yes.

MS McDONALD: And why do you - when I say it was Mr Breton's signature, how do you know that?

10

MR HARTE: Because it looks like his. I - I - it's - well, it's - I don't - wouldn't be aware of anyone else - it being - it being anyone else's signature.

MS McDONALD: I've probably - I didn't ask that question appropriately. We've seen some emails where - at least two occasions during Mr Breton's campaign, he forwards you an electronic signature?

15

MR HARTE: Yes.

MS McDONALD: And did you apply one of those electronic signatures to this page?

20

MR HARTE: Not - no. Not that I can recall, no.

MS McDONALD: All right. So is your - you've completed this. And then what is your evidence about how Mr Breton's signature was applied to the document?

25

MR HARTE: Not sure.

MS McDONALD: Do you recall emailing or scanning it or sending it to him, or seeing him in person?

30

MR HARTE: I don't remember specifically how it got signed.

MS McDONALD: I took you to some other documents on the previous occasion where there was a signature under the declaration by Jason Breton. For example, could ELC.003.001.0003 be brought up. Yes, please. Now, this was a nil annual electoral expenditure disclosure?

35

MR HARTE: Yes.

40

MS McDONALD: And if we go through to the third page of that document, you can see the declaration?

MR HARTE: Yes.

45

MS McDONALD: You can see the signature?

MR HARTE: Yes.

5 **MS McDONALD:** I can take you to it, but one of the electronic signatures that Mr Breton provided to you is very similar to that?

MR HARTE: Yes.

10 **MS McDONALD:** Did you apply his electronic signature to this document?

MR HARTE: I can't recall if I did.

MS McDONALD: Is that something that you would have done?

15 **MR HARTE:** I don't think so. No, I don't think so.

MS McDONALD: Why not?

20 **MR HARTE:** Well, I - the - the emails with his signature was through the election campaign, and I - you know, unless I had the sort of - I had authorisation from Mr Breton, I obviously wouldn't utilise the signature.

MS McDONALD: You still have them on your computer, the signature?

25 **MR HARTE:** Yes.

MS McDONALD: Again, theoretically you could apply it?

30 **MR HARTE:** Yes.

MS McDONALD: But your evidence is (a) you can't recall doing that?

MR HARTE: No.

35 **MS McDONALD:** And (b) to apply Mr Breton's signature now, outside of the campaign period, you would have required his express permission or authorisation?

MR HARTE: Yes.

40 **MS McDONALD:** I asked you - sorry.

MR HARTE: I have a council meeting tonight so I need to save my voice.

45 **MS McDONALD:** You're not going to speak very often, are you?

MR HARTE: Sorry?

MS McDONALD: Have you got a starring role tonight?

MR HARTE: No, I don't. I don't have any motions or anything, but I'll make sure I have my honey and tea.

5

MS McDONALD: Do you remember on the last occasion I asked you about the disclosure of electoral expenditure?

MR HARTE: Yes.

10

MS McDONALD: And the form that we had then wasn't - didn't have any details in it?

MR HARTE: Was this the "nil" - just - yes.

15

MS McDONALD: Do you recall being provided with any information from Mr Breton about expenditures - electoral expenditures?

MR HARTE: I can't recall. I don't remember.

20

MS McDONALD: If we can bring up, please, INQ.082.001.0001. And it can be live streamed when you bring it up. Can - do you see, that's the first page, "Annual Disclosure", and you can see "Jason Breton, Liverpool South Ward" is there?

25

MR HARTE: Yes.

MS McDONALD: And if we can now jump to the last page of the document, page - yes. Excuse me for a minute. Can you now bring up ELC.005.001.0001. That can be live streamed. Now, that's the cover page?

30

MR HARTE: Yes.

MS McDONALD: If we go to the next page, you'll see "Jason Breton" filled in?

35

MR HARTE: Yes.

MS McDONALD: If we jump to the last page now, you can see the disclosure period is for that year. Again, "Jason Breton" with a signature?

40

MR HARTE: Yes.

MS McDONALD: And a date of 16th of the 9th 2022?

MR HARTE: Yes.

45

MS McDONALD: And then if we jump back to - I think it's the third page of the document. Can you see there "Electoral Expenditure" and there are four items?

MR HARTE: Yes.

5 **MS McDONALD:** Now, the one of 23 November, the last one - and if you want to cross-reference, it's the invoice from Centrum Printing which was Nathan attack invoice -

MR HARTE: Yes.

10 **MS McDONALD:** - for \$2,629.

MR HARTE: Yes.

15 **MS McDONALD:** You can see on 18 November there's another invoice from Centrum Printing, this time for corflute poster printing?

MR HARTE: Yes.

20 **MS McDONALD:** And then above that, on 16 and 18 November, there were two invoices provided by Chelsea Breton.

MR HARTE: Yes.

25 **MS McDONALD:** One for social media tiles?

MR HARTE: Yes.

MS McDONALD: And another one for design material?

30 **MR HARTE:** Yes.

MS McDONALD: And it was for 200 and 750 -

35 **MR HARTE:** Yes.

MS McDONALD: - respectively. Looking at this document, did you complete it on behalf of Mr Breton?

40 **MR HARTE:** I might have. I don't remember.

MS McDONALD: You don't recall?

MR HARTE: No, yes.

45 **MS McDONALD:** Did you know and - were you ever given details about a Chelsea Breton doing work on social media tiles or design materials?

MR HARTE: I might have been aware of it - sorry. I might have been aware of it in the - the bank summary.

MS McDONALD: In -

5

MR HARTE: The transaction summary.

MS McDONALD: Can you remember now?

10 **MR HARTE:** It's in front of me, obviously, I -

MS McDONALD: No, no, no. Sorry. You said "I might have been" because you received the bank transaction summary.

15 **MR HARTE:** Yes.

MS McDONALD: Can you actually recall those entries being on it?

MR HARTE: No, I -

20

MS McDONALD: Are you just putting two and two together?

MR HARTE: Yes. Sorry.

25 **MS McDONALD:** Okay. So you can't recall whether you completed this for Mr Breton?

MR HARTE: No, I don't remember. I could have, but I don't remember.

30 **MS McDONALD:** All right. Because if we go down in the bottom of the page, the office details, it's not received until 31 May 2023, which is about eight months after the signature - the signature on the last page.

MR HARTE: Yes, I'm not sure.

35

MS McDONALD: Right. You've got no recollection of -

MR HARTE: No.

40 **MS McDONALD:** - this document, why it would have been forwarded a considerable time after it appears to have been signed?

MR HARTE: Yes, it's a long - yes, I'm not sure why.

45 **MS McDONALD:** Excuse me for a minute. I asked you some questions about - you were communicating by the text messages -

MR HARTE: Yes.

5 **MS McDONALD:** - and then the WhatsApp. One thing I meant to ask you - do you recall yesterday there's an exchange about the Liverpool Leader article and question 5?

MR HARTE: Yes.

10 **MS McDONALD:** Did Ray eventually draft something?

MR HARTE: I think that was the - I think that was what I told Jason, that Ray would draft something up - I think. Is that what -

15 **MS McDONALD:** Do you know - you referred to Ray.

MR HARTE: Yes.

20 **MS McDONALD:** And I'm just wondering to - is your recollection that Ray did draft something up?

MR HARTE: I don't - I don't remember if he did. It was a very hectic time.

MS McDONALD: All right.

25 **MR HARTE:** Yes.

MS McDONALD: Now, as I've said, you have produced text messages and then the WhatsApp messages.

30 **MR HARTE:** Yes.

MS McDONALD: You've also provided a collection - a group of emails -

35 **MR HARTE:** Yes.

MS McDONALD: - which commence on 30 June 2021, and then the last one is 29 November 2021.

40 **MR HARTE:** Yes.

MS McDONALD: Now, you've given evidence about your request on 20 February to Mr Breton:

45 "Are you able to send the bank statement for the campaign account you used."
And you - said:

"Yes, I will do it shortly."

MR HARTE: Yes.

5 **MS McDONALD:** On the last - first time you gave evidence, your recollection was that that bank statement or the bank history of transactions -

MR HARTE: Yes.

10 **MS McDONALD:** - was provided to you by Mr Breton.

MR HARTE: Yes.

MS McDONALD: And you thought it was by email?
15

MR HARTE: Yes, it was.

MS McDONALD: All right. It doesn't appear in the emails that you've produced.

20 **MR HARTE:** I - I did send it, I'm pretty sure. I - because I - I remember specifically sending that, so -

MS McDONALD: All right. Can I -

25 **MR HARTE:** (Indistinct) check that.

MS McDONALD: Excuse me for a minute. The material that you sent to the inquiry, did you compile it yourself?

30 **MR HARTE:** Yes.

MS McDONALD: So you went back and looked at all the emails you've still got, text messages you've still got and your WhatsApp?

35 **MR HARTE:** Yes.

MS McDONALD: And it's your recollection that you found the email with the bank statement -

40 **MR HARTE:** Yes.

MS McDONALD: Sorry, I call it the bank statement. You know what I'm referring to?

45 **MR HARTE:** Yes. No, that's - yes. Yes.

MS McDONALD: And with that email, did it have the attachment?

MR HARTE: Yes.

MS McDONALD: So we still could have seen what was on the attachment?

5

MR HARTE: Yes. No, I thought I furnished that. I'll obviously check for you.

MS McDONALD: Did you furnish it directly to the inquiry or did your legal representatives furnish it to the inquiry?

10

MR HARTE: My legal representatives.

MS McDONALD: Sorry?

15

MR HARTE: My legal representatives.

MS McDONALD: All right. Could you just excuse me.

MR HARTE: I can - if I grab my phone I can grab it.

20

COMMISSIONER: Is MFI 31 the entirety of the production?

MS McDONALD: That was our understanding. Well, it -

25

COMMISSIONER: All right. It can be checked.

MS McDONALD: I think it might be needed for questioning. That's the only issue that I'm raising. And also if I may just ask a question - from your evidence, it's evident that that email is missing.

30

MR HARTE: Yes.

MS McDONALD: After 29 November, were there any other emails that you -

35

MR HARTE: Not that I could see, no.

MS McDONALD: So your recollection is there's another email dated some time in February 2022 from Mr Breton, where he attaches this -

40

MR HARTE: I think, in fairness - and it might be an administrative error on my part - I was given, like, a portal to upload documents, and then I found that after the fact - because I was wondering where it was and I went through my emails one by one, and then I found it. And I - I thought I did send it. I can have a look, and - but definitely there. I can get it for you, if -

45

MS McDONALD: You've definitely got it?

MR HARTE: Yes, I do.

MS McDONALD: All right.

5 **MR HARTE:** Because I know it would be of interest, so I - yes.

MS McDONALD: Yes. Okay. And from your search with MFI 31, that's the only additional email you found?

10 **MR HARTE:** Yes.

MS McDONALD: You never found any emails where, for example, you've completed the half-yearly disclosure document and then forwarded it to Mr Breton for his signature?

15 **MR HARTE:** No.

MS McDONALD: So there was nothing like that?

20 **MR HARTE:** No. Not that I could find. No.

MS McDONALD: All right. And then with the text messages, we've got - within the boundaries of the time period that you were asked about, we've got all the text messages of communications between you and Mr Breton?

25 **MR HARTE:** Yes.

MS McDONALD: And then the tail part of the WhatsApp messages?

30 **MR HARTE:** Yes.

MS McDONALD: All right. The - this additional email, can you access it easily?

MR HARTE: If you want to adjourn for five minutes, I can -
35

MS McDONALD: Well, I was just going to raise that -

MR HARTE: Yes.

40 **MS McDONALD:** - with the Commissioner.

COMMISSIONER: Mr Tynan, is this a document that you would like to see before we restart?

45 **MR TYNAN:** Yes, the - I also need to take some instructions. And can we - we also did not see the new document that was shown to -

COMMISSIONER: I see.

MR TYNAN: - the councillor today, so I do need some time to take some instructions.

5

COMMISSIONER: All right. Okay. Can we - what about this. I'll adjourn for 10 minutes. The document - you can speak with your legal - your counsel and your solicitor if you need to, to identify that document, have it produced. It can be printed, copies given to the parties very quickly.

10

MS McDONALD: Yes.

COMMISSIONER: Perhaps Mr Tynan first. And, Mr Tynan, you can take some instructions. If you need longer than 15 minutes -

15

MR TYNAN: Yes.

COMMISSIONER: - you just get a message to me.

20

MR TYNAN: Yes.

COMMISSIONER: That's not a problem. And is that the only other document we have to go through - you have left to go through with this witness?

25

MS McDONALD: I've got a couple of more questions for Mr Harte.

COMMISSIONER: All right.

MS McDONALD: But it doesn't involve any new documents.

30

COMMISSIONER: All right. Why don't we finish that, so then we've only got the one issue to come back to with you.

MS McDONALD: All right. Sorry -

35

COMMISSIONER: Or do you need that before you do the -

MS McDONALD: No. With the proviso that when I see the document I might have some questions for Mr Harte.

40

COMMISSIONER: Yes. No, that - that's what I intended to say if I didn't convey it.

MS McDONALD: Just - sorry, there is - just one final thing. If we go back to the split screen and the WhatsApp messages - so we're at page 40. Right down the bottom, you've got 14 September?

45

MR HARTE: Yes.

MS McDONALD: That was the date of the council election?

MR HARTE: It was.

5

MS McDONALD: You were texting or WhatsApping - if that's the verb - Mr Breton?

MR HARTE: I was.

10

MS McDONALD: What were you saying to him?

MR HARTE: I sent him a photo.

15

MS McDONALD: And what was your photo?

MR HARTE: I'll show you when I get my phone in a second. It's a - it was a photo of me holding a bottle of wine, obviously in celebration, and the bottle of wine was called The Ned.

20

MS McDONALD: The Ned? Okay. All right. And so by the time you'd sent that, you knew that you'd been successful?

MR HARTE: Yes.

25

MS McDONALD: And I assume you - Mr Mannoun had been?

MR HARTE: Yes. Yes.

30

MS McDONALD: All right. Okay. Now, just very quickly, with the documents and with the evidence you've given -

MR HARTE: Yes.

35

MS McDONALD: - when the strategy of having an independent candidate changed from the previous person you'd identified - or you and Ned had identified - become Mr Breton, there's evidence that you helped him and assisted him in the following ways. You assisted him in getting on the non-residential roll?

40

MR HARTE: Yes.

MS McDONALD: You organised that - the business or the person who was going to say, "Yes, I'm giving Mr Breton my vote" - you organised that?

45

MR HARTE: Yes.

MS McDONALD: You organised - sorry. You indicated that donors would be either arranged or organised by Mr Mannoun?

MR HARTE: Yes.

5

MS McDONALD: You assisted him - and I'm just summarising this - to register as a candidate?

MR HARTE: Yes.

10

MS McDONALD: To register as a team of candidates?

MR HARTE: Yes.

15

MS McDONALD: Then you assisted him with nominating as a candidate?

MR HARTE: Yes.

MS McDONALD: Do you have to nominate as a team as well?

20

MR HARTE: Yes. So you nominate as a candidate - sorry, or - you have to nominate as a group to get the - to get the above the line box, so yes.

MS McDONALD: You assisted him by telling him social sites where he could spruik his "independence"?

25

MR HARTE: Yes.

MS McDONALD: You organised the people who nominated him? I can take you to their names -

30

MR HARTE: Yes. Yes. Yes, I remember.

MS McDONALD: That they were associated with the Liberal Party?

35

MR HARTE: Yes.

MS McDONALD: You organised for Richard Ammoun to witness various signatures and declarations?

40

MR HARTE: I don't remember if I organised that, but -

MS McDONALD: I think your evidence was Mr Ammoun was probably hanging around Terminus -

45

MR HARTE: Yes, that's probably the case. Yes.

MS McDONALD: - Street office. It would appear that at times Mr Breton attended the Terminus Street office during his campaign?

MR HARTE: Yes.

5

MS McDONALD: It would appear that he - the corflutes were stored there -

MR HARTE: For a very short period I think it was, yes.

10 **MS McDONALD:** You assisted him in arranging for the printing of the flyers and the corflutes?

MR HARTE: Yes.

15 **MS McDONALD:** Told him to say to Percy, "I'm associated with Mr Mannoun"?

MR HARTE: Yes.

MS McDONALD: You assisted him in drafting his letters, his flyers?

20

MR HARTE: Yes.

MS McDONALD: You assisted him in answering question 5 for the Liverpool Leader article?

25

MR HARTE: Yes.

MS McDONALD: And your recollection is you organised Ray to write that?

30 **MR HARTE:** Yes.

MS McDONALD: Again, you assisted him with identifying an authorised address?

MR HARTE: Yes.

35

MS McDONALD: Your involvement with Mr Breton's campaign is, you were really acting as his campaign manager?

MR HARTE: The reason I wouldn't describe it that way is that at the time Mr Breton's campaign took up - during the election campaign, sorry - we took up 10 per cent of my time. The Liberal Party campaign took a lot longer and -

40

MS McDONALD: There was nobody else with Mr Breton's campaign doing the work that I've just summarised that you were undertaking?

45

MR HARTE: Correct.

MS McDONALD: You might not agree that you were his electoral campaign - campaigner, but in substance you were his de facto electoral campaigner?

MR HARTE: So I accept that.

5

MS McDONALD: Given that extent of your involvement and the work you did for Mr Breton's campaign - could we bring up, please, HAR.001.001.0001. And, sorry, I didn't include all your work subsequently with completing disclosure -

10 **MR HARTE:** Yes.

MS McDONALD: Yes, please. This is your conflict of interest form?

MR HARTE: Yes.

15

MS McDONALD: And if we go towards the bottom of the page, section 4:

"I have previously provided advice to Mr Breton in an election campaign (before his employment and my election to LCC)."

20

Now, I've put this to you before. You would agree that that's an understatement of your involvement and the work that you did for Mr Breton in that election campaign?

25 **MR HARTE:** I think the conflict - the declaration is accurate in terms of the activities that I took out - undertook, sorry. In hindsight, if I was looking at the word "advice", you know, it could be changed out. I accept that.

MS McDONALD: It goes beyond advice. When I listed everything in that summary -

30

35 **MR HARTE:** Advice and assistance. Like, the way - as I said, the way I viewed it at the time - and I accept that - the way I viewed it at the time when I was filling out this conflict of interest declaration form is what do I remember from late 2021? It was the Liberal Party campaign and that - how that took up the vast majority of my time. And Mr Breton's campaign was on the periphery, I suppose. Like, it - in terms of what I undertook for him, it was - was nowhere near the level of work that I did for the Liberal Party. But I do accept your point.

40 **MS McDONALD:** Okay. And - because his campaign was part of your - the Liberal Party strategy to get an independent candidate up and running?

MR HARTE: Correct.

45 **MS McDONALD:** And you gave evidence before that this was handed to you, I think, in a very short period of time for you to complete. Do you remember that?

MR HARTE: Yes.

MS McDONALD: But you knew for a while that you would be completing a form in - of conflict of interest in respect of Mr Breton, because you knew that he was running? Sorry, not running. You knew that he was applying for the CEO position?

5

MR HARTE: I never had that conversation with him - that he was - like, the only time that I knew it was confirmed that he was running as a candidate for CEO was when it was shown to us. But obviously I knew there was an indication that he was obviously wanting the permanent role.

10

MS McDONALD: Right. Didn't he have to curtail his involvement in some aspects of council work around January, February because he was a candidate?

MR HARTE: What do you mean by "curtail", sorry?

15

MS McDONALD: Well, for example, in February when the recruitment people are being organised and there's a training day for the recruitment panel, Mr Breton isn't seen. And I think it's either Mr Galpin or another director takes over all that organisation?

20

MR HARTE: The organisation of the panel?

MS McDONALD: Yes, all that sort of nuts and bolts things.

25 **MR HARTE:** Yes, no, that's - yes, obviously the - yes, there would be a conflict of interest -

MS McDONALD: Yes.

30 **MR HARTE:** - if the CEO was involved. Yes.

MS McDONALD: And what I'm suggesting to you is because Mr Breton was away from that involvement in the nuts and bolts aspect, you knew that he was applying for the role?

35

MR HARTE: I don't think it was through that specifically. Like, I think I just had an understanding that he wasn't intending on - nominating as a candidate.

40 **MS McDONALD:** Can you excuse me. Commissioner, if we could just have the quick break to get the document.

COMMISSIONER: Yes. Would you approach this form differently today?

MR HARTE: After going through -

45

COMMISSIONER: If you're filling it out today?

MR HARTE: After going through for the last few days every interaction I've had with Jason Breton, probably, yes.

5 **COMMISSIONER:** In what way? What would you do differently? And I appreciate this is with the benefit of hindsight. That's not lost on me.

10 **MR HARTE:** It's accurate where it has, you know, my interactions with Mr Breton. I didn't have much communication with him - as you saw, the WhatsApp messages was from 2022 to election day in 2024, there - there was very little communication between us. I think it comes down to the word that I chose, being "advice". Probably could have been -

15 **COMMISSIONER:** So a bit more detail around that? Is that what you have in mind?

MR HARTE: Yes. Yes, probably should have been, but -

COMMISSIONER: All right.

20 **MR HARTE:** Again, at the time it was - you know, election periods are a blur. You don't really - I think in - during election periods you don't really think about - or that - you just do what you have to do, you don't actually really think about it much, I suppose. And to recall every step that I took, every breath that I've taken during that period, obviously - it's fresh in your mind, thinking (indistinct). Yes.

25 **COMMISSIONER:** All right. Yes.

30 **MR TYNAN:** Have you finished with your question? Sorry, I didn't mean to cut you off.

COMMISSIONER: I have. Yes. That's all right.

MR TYNAN: Can I raise one issue before we break, but in the absence of -

35 **COMMISSIONER:** Of course you can.

MR TYNAN: - Mr Harte, please.

40 **COMMISSIONER:** Yes. Councillor, if you wouldn't mind stepping outside. Perhaps you can start the search for that document in the meantime.

<THE WITNESS WITHDREW

45 **MR TYNAN:** Commissioner, in the absence - sorry, through my instructing solicitors I made a request for the summons that (indistinct). A summons was also issued to my client, Mr Breton. We do not know the terms of the summons (indistinct) Mr Harte. That request has been denied. We were told it was

inappropriate to give - provide a summons to us that was issued to another party. Frankly, I don't see why it's inappropriate, particularly in circumstances where it deals with communications between Mr Harte and my client.

5 The reason why we wish to see this summons - find out the ambit of it - its terms, also the period that it covers. Mr Harte gave some evidence last week that he had communication with my client, Mr Breton, in respect to purported donations and the communications about them in the latter half of 2021. Now, we've not seen any documents that have been produced that deal with that issue, and I can't test what
10 the - the veracity or truthfulness of that statement until I can see the terms of the summons and identify whether any documents were produced or ought to have been produced in response to that. So that's the reason why we would like to see the summons that was issued to Mr Harte.

15 **COMMISSIONER:** All right. I understand - I think, as a general proposition, assuming the response that Mr Tynan's people received is as he described it - and I'm sure it is - is right, but the issue of the adequacy of production has now been made live.

20 **MS McDONALD:** We can - I'm just loath to provide the notice. As I explained to my learned friend, that isn't the procedure that's adopted with the inquiry. If, Commissioner, you wish it, we can provide him - probably by a comparison to the terms of the notice that was issued to Mr Breton that would reflect the terms of that - of the notice to Mr Harte.

25 **COMMISSIONER:** It seems like Mr Tynan wants to know the date range.

MS McDONALD: Yes.

30 **MR TYNAN:** Yes, the date range. But also the notice that was issued to my client deals specifically in relation to the use of (indistinct). So I - we just need to see the summons in terms (indistinct) including the date range.

MS McDONALD: It's in exactly the same terms, except the names are switched
35 (indistinct). It's the -

COMMISSIONER: I signed it, but I don't remember.

MS McDONALD: It is in exactly the same terms as the notice to Mr Breton, except
40 instead of saying "correspondence between you" - "All correspondence between you and Matthew Harte," it says, "All correspondence between you and Jason Breton." And then it continues in exact terms.

COMMISSIONER: All right. Well, Mr Tynan, I think counsel - senior counsel
45 assisting has read that onto the transcript. I will sight the summonses myself, not that I doubt anything that's just been said, but I think -

MR TYNAN: No, that's helpful. That's all we needed.

COMMISSIONER: I think you can take that -

5 **MR TYNAN:** That's all we needed.

COMMISSIONER: - as being the ambit of the summons.

10 **MR TYNAN:** Thank you.

COMMISSIONER: All right. I said 10 minutes, Mr Tynan, but what I'll do is I'll just adjourn generally. You can get a message to me when you're ready to start.

15 **MR TYNAN:** Yes. Thank you.

COMMISSIONER: And I'll return to the bench then.

MR TYNAN: Thank you.

20 **COMMISSIONER:** And there's no problem with you speaking to Mr - Councillor Harte in the meantime.

MR BHUTANI: Thank you.

25 **<THE HEARING ADJOURNED AT 3.34 PM**

<THE HEARING RESUMED AT 4.10 PM

30 **<MATTHEW WILLIAM HARTE, ON FORMER OATH**

MS McDONALD: Commissioner, can you just excuse me. Commissioner, two things. The first thing is Mr Harte has provided the email that he received from Mr Breton on 20 February with an attachment.

35 **COMMISSIONER:** All right. That's been circulated?

MS McDONALD: The attachment has been circulated. What I might do, just to finish this part of Mr Harte's evidence - can I show him the two pages -

40 **COMMISSIONER:** And he can identify it.

MS McDONALD: Yes.

45 **MS McDONALD:** Mr Harte, you've been given two documents?

MR HARTE: Yes.

MS McDONALD: You've got my copy. One's the email -

MR HARTE: Yes.

5 **MS McDONALD:** - that you received from Mr Breton - again, I think this was 20 February?

MR HARTE: Yes.

10 **MS McDONALD:** And there is an attachment?

MR HARTE: Yes.

15 **MS McDONALD:** And the attachment, I think you've - I described it as the bank statement, you've described it as the transaction summary from the bank statement.

MR HARTE: Yes.

20 **MS McDONALD:** And that was the document, I think, you did identify that should have been produced pursuant to the notice?

MR HARTE: Yes.

25 **MS McDONALD:** But there was some delay in it getting uploaded onto your solicitor's portal or something along those lines?

MR HARTE: Yes. Yes.

30 **MS McDONALD:** Okay. At the moment, could that just be marked for identification? We haven't got an official document number for it yet.

COMMISSIONER: All right. The documents shown to Councillor Harte in that passage of evidence and produced by him pursuant to notice today will be MFI 32.

35 **<MFI #32 DOCUMENTS PRODUCED BY COUNCILLOR HARTE
PURSUANT TO NOTICE AND SHOWN TO COUNCILLOR HARTE
DURING EVIDENCE ON 29/10/2025**

40 **MS McDONALD:** That then raises Mr Harte's further evidence.

COMMISSIONER: Yes.

45 **MS McDONALD:** Mr Tynan requires some additional time for - to get instructions. We do have, except for Monday, the next two weeks the availability of the courtroom. We've been discussing with our fellow counsel availability. Our aim is to get Mr Harte's evidence completed within that two weeks. We have flagged with counsel that it may be on a particular day within the next two weeks we start at 4.30

and we complete Mr Harte's evidence. That's been raised with counsel. Counsel can determine - if anybody's got carer responsibilities, that they can be re-organised.

COMMISSIONER: Yes.

5

MS McDONALD: And the two junior counsel and the counsel assisting team will be coordinating everything.

COMMISSIONER: Yes.

10

MS McDONALD: But that seems to be the plan to complete Mr Harte's evidence.

COMMISSIONER: All right. I'm happy to accommodate that. Does anyone want to say anything? Mr Tynan?

15

MR TYNAN: No, I had a different matter to raise, but no, no problem with that.

COMMISSIONER: No problem with that bit.

20

MR TYNAN: Thank you.

COMMISSIONER: Anything -

MR BHUTANI: No issue with that.

25

COMMISSIONER: All right. Yes. As long as the late start and sitting until we need to is - I'm happy to accommodate it, as long as everybody's given adequate notice to arrange their personal responsibilities. That's all I'd ask. But that can be all resolved at the counsel level and somebody can let me know.

30

MS McDONALD: Yes.

COMMISSIONER: All right. Councillor, I will see you once more, but I'm happy to say I can let you go now and you can make your way to the council meeting.

35

MR HARTE: Thank you very much.

COMMISSIONER: Thank you for your attendance and assistance today. We'll see you again in the next couple of weeks.

40

<THE WITNESS WITHDREW

COMMISSIONER: Yes, Mr Tynan.

45

MR TYNAN: Just clarifying for the transcript, perhaps, counsel - Mr Harte was provided two documents. We've been provided the attachment, which is -

COMMISSIONER: All right. Let - can I have the MFI?

MS McDONALD: Yes.

5 **COMMISSIONER:** I'll scribble on the MFI and then that can be distributed, but I'll show it to you.

MR TYNAN: I understand the - just for the transcript, I think the covering email is just the email to the commission or to the counsel assisting -
10

MS McDONALD: No, it's the email from Mr Breton to Mr Harte.

MR TYNAN: To Mr Harte? Okay. Well -

15 **MS McDONALD:** I think the confusion arose that there was another email -

MR TYNAN: Right.

MS McDONALD: - from the solicitors. We're obviously not relying on that or tendering that.
20

MR TYNAN: Yes. No, of course.

MS McDONALD: But the email from Mr Breton to Mr Harte is -
25

MR TYNAN: Okay.

MS McDONALD: - part of the two documents that were identified.

30 **MR TYNAN:** Okay. And that will be uploaded so that we can -

MS McDONALD: Yes.

COMMISSIONER: And I'll hand it to you right now if you wish, Mr Tynan, but the email doesn't have any content. It just attaches the attachment.
35

MR TYNAN: Thank you.

COMMISSIONER: But I'll show it to you now.
40

MR TYNAN: Good to know what's in play.

COMMISSIONER: Yes, of course. And -

45 **MR TYNAN:** Thanks.

COMMISSIONER: - MFI 30 and 31 are the balance of the production by Councillor Harte in answer to the notice?

MS McDONALD: Yes.

COMMISSIONER: So all of the messages and all of the emails?

MS McDONALD: I'm sorry. The document that was inadvertently not downloaded which has got an identification number of HAR.002.001.0090 -

COMMISSIONER: Which I'll mark MFI 33.

**<MFI #33 DOCUMENT WITH IDENTIFICATION NUMBER
HAR.002.001.0090**

MS McDONALD: Yes.

COMMISSIONER: So between - MFI 30, 31, 32 and 33 constitutes the entire production by Councillor Harte in answer to the notice that - it was issued to him on a date that I now can't remember.

MS McDONALD: Yes.

COMMISSIONER: All right.

MR TYNAN: Thanks. I'll hand that back.

COMMISSIONER: Anything else? All right.

MR TYNAN: Not from me. Thank you.

COMMISSIONER: The complete copy of MFI - that MFI - I think it's - whatever one I've called it - will be sent around to the parties later this afternoon. 10 am tomorrow? I'll adjourn till 10 am tomorrow. Thank you, everybody.

<THE HEARING ADJOURNED AT 4.16 PM